

## ACTIVITY SHEET

COMMITTEE: Health & Human Services Committee

LD #: 975

TITLE: An Act To Establish the Maine Medical Marijuana Act

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 975

I.B. 2

House of Representatives, March 10, 2009

### An Act To Establish the Maine Medical Marijuana Act

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Transmitted to the Clerk of the 124th Maine Legislature by the Secretary of State on March 4, 2009, and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

1       **Be it enacted by the People of the State of Maine as follows:**

2               **Sec. 1. 15 MRSA §5821-A**, as enacted by IB 1999, c. 1, §3, is amended to read:

3       **§5821-A. Property not subject to forfeiture based on medical use of marijuana**

4               ~~Beginning January 1, 1999, property~~ Property is not subject to forfeiture under this  
5 chapter if the activity that subjects the person's property to forfeiture is ~~possession~~  
6 medical use of marijuana and the person meets the requirements for medical use of  
7 marijuana under Title 22, ~~section 2383-B, subsection 5~~ chapter 558-C.

8               **Sec. 2. 17-A MRSA §1111-A, sub-§1**, as amended by PL 2001, c. 383, §135 and  
9 affected by §156, is further amended to read:

10              **1.** As used in this section the term "drug paraphernalia" means all equipment,  
11 products and materials of any kind that are used or intended for use in planting,  
12 propagating, cultivating, growing, harvesting, manufacturing, compounding, converting,  
13 producing, processing, preparing, testing, analyzing, packaging, repackaging, storing,  
14 containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the  
15 human body a scheduled drug in violation of this chapter or Title 22, section 2383, except  
16 that this section does not apply to a person who is authorized to possess marijuana for  
17 medical use pursuant to Title 22, ~~section 2383-B, subsection 5~~ chapter 558-C, to the  
18 extent the drug paraphernalia is ~~required~~ used for that person's medical use of marijuana.  
19 It includes, but is not limited to:

20              A. Kits used or intended for use in planting, propagating, cultivating, growing or  
21 harvesting of any species of plant which is a scheduled drug or from which a  
22 scheduled drug can be derived;

23              B. Kits used or intended for use in manufacturing, compounding, converting,  
24 producing, processing or preparing scheduled drugs;

25              C. Isomerization devices used or intended for use in increasing the potency of any  
26 species of plant that is a scheduled drug;

27              D. Testing equipment used or intended for use in identifying or in analyzing the  
28 strength, effectiveness or purity of scheduled drugs;

29              E. Scales and balances used or intended for use in weighing or measuring scheduled  
30 drugs;

31              F. Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite,  
32 dextrose and lactose, used or intended for use in cutting scheduled drugs;

33              G. Separation gins and sifters, used or intended for use in removing twigs and seeds  
34 from, or in otherwise cleaning or refining, marijuana;

35              H. Blenders, bowls, containers, spoons and mixing devices used or intended for use  
36 in compounding scheduled drugs;

37              I. Capsules, balloons, envelopes and other containers used or intended for use in  
38 packaging small quantities of scheduled drugs;

1 J. Containers and other objects used or intended for use in storing or concealing  
2 scheduled drugs; and

3 K. Objects used or intended for use in ingesting, inhaling or otherwise introducing  
4 marijuana, cocaine, hashish or hashish oil into the human body, such as:

5 (1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without  
6 screens, permanent screens, hashish heads or punctured metal bowls;

7 (2) Water pipes;

8 (3) Carburetion tubes and devices;

9 (4) Smoking and carburetion masks;

10 (5) Roach clips, meaning objects used to hold burning material, such as a  
11 marijuana cigarette that has become too small or too short to be held in the hand;

12 (6) Miniature cocaine spoons and cocaine vials;

13 (7) Chamber pipes;

14 (8) Carburetor pipes;

15 (9) Electric pipes;

16 (10) Air-driven pipes;

17 (11) Chillums;

18 (12) Bongs; or

19 (13) Ice pipes or chillers.

20 **Sec. 3. 22 MRSA §2383, sub-§1**, as amended by PL 2005, c. 386, Pt. DD, §3, is  
21 further amended to read:

22 **1. Marijuana.** Except as provided in ~~section 2383-B, subsection 5~~ chapter 558-C, a  
23 person may not possess marijuana.

24 A. A person who possesses a usable amount of marijuana commits a civil violation  
25 for which a fine of not less than \$350 and not more than \$600 must be adjudged,  
26 none of which may be suspended.

27 B. A person who possesses a usable amount of marijuana after having previously  
28 violated this subsection within a 6-year period commits a civil violation for which a  
29 fine of \$550 must be adjudged, none of which may be suspended.

30 **Sec. 4. 22 MRSA §2383-B, sub-§5**, as amended by PL 2001, c. 580, §3, is  
31 repealed.

32 **Sec. 5. 22 MRSA c. 558-C** is enacted to read:

33 **CHAPTER 558-C**

34 **MAINE MEDICAL MARIJUANA ACT**

1       **§2421. Short title**

2           This chapter may be known and cited as "the Maine Medical Marijuana Act."

3       **§2422. Definitions**

4           As used in this chapter, unless the context otherwise indicates, the following terms  
5           have the following meanings.

6           **1. Cardholder.** "Cardholder" means a qualifying patient, a primary caregiver or a  
7           principal officer, board member, employee or agent of a nonprofit dispensary who has  
8           been issued and possesses a valid registry identification card.

9           **2. Debilitating medical condition.** "Debilitating medical condition" means:

10           A. Cancer, glaucoma, positive status for human immunodeficiency virus, acquired  
11           immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's  
12           disease, agitation of Alzheimer's disease, nail-patella syndrome or the treatment of  
13           these conditions;

14           B. A chronic or debilitating disease or medical condition or its treatment that  
15           produces intractable pain, which is pain that has not responded to ordinary medical or  
16           surgical measures for more than 6 months;

17           C. A chronic or debilitating disease or medical condition or its treatment that  
18           produces one or more of the following: cachexia or wasting syndrome; severe nausea;  
19           seizures, including but not limited to those characteristic of epilepsy; or severe and  
20           persistent muscle spasms, including but not limited to those characteristic of multiple  
21           sclerosis; or

22           D. Any other medical condition or its treatment approved by the department as  
23           provided for in section 2424, subsection 2.

24           **3. Enclosed, locked facility.** "Enclosed, locked facility" means a closet, room,  
25           greenhouse or other enclosed area equipped with locks or other security devices that  
26           permit access only by a cardholder.

27           **4. Felony drug offense.** "Felony drug offense" means a violation of a state or federal  
28           controlled substance law that was classified as a felony in the jurisdiction where the  
29           person was convicted. It does not include:

30           A. An offense for which the sentence, including any term of probation, incarceration  
31           or supervised release, was completed 10 or more years earlier; or

32           B. An offense that consisted of conduct that would have been permitted under this  
33           chapter.

34           **5. Medical use.** "Medical use" means the acquisition, possession, cultivation,  
35           manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia  
36           relating to the administration of marijuana to treat or alleviate a registered qualifying  
37           patient's debilitating medical condition or symptoms associated with the patient's  
38           debilitating medical condition.

1       **6. Nonprofit dispensary.** "Nonprofit dispensary" means a not-for-profit entity  
2 registered under section 2428 that acquires, possesses, cultivates, manufactures, delivers,  
3 transfers, transports, sells, supplies or dispenses marijuana or related supplies and  
4 educational materials to cardholders. A nonprofit dispensary is a primary caregiver.

5       **7. Physician.** "Physician" means a person licensed as an osteopathic physician by the  
6 Board of Osteopathic Licensure pursuant to Title 32, chapter 36 or a person licensed as a  
7 physician or surgeon by the Board of Licensure in Medicine pursuant to Title 32, chapter  
8 48.

9       **8. Primary caregiver.** "Primary caregiver" means a person who is at least 21 years  
10 of age who has agreed to assist with a qualifying patient's medical use of marijuana and  
11 who has never been convicted of a felony drug offense. Unless the primary caregiver is a  
12 nonprofit dispensary, the primary caregiver may assist no more than 5 qualifying patients  
13 with their medical use of marijuana.

14       **9. Qualifying patient.** "Qualifying patient" means a person who has been diagnosed  
15 by a physician as having a debilitating medical condition.

16       **10. Registered nonprofit dispensary.** "Registered nonprofit dispensary" means a  
17 nonprofit dispensary that is registered by the department pursuant to section 2428,  
18 subsection 2, paragraph A.

19       **11. Registered primary caregiver.** "Registered primary caregiver" means a  
20 primary caregiver who is registered by the department pursuant to section 2425,  
21 subsection 4.

22       **12. Registered qualifying patient.** "Registered qualifying patient" means a  
23 qualifying patient who is registered by the department pursuant to section 2425,  
24 subsection 1.

25       **13. Registry identification card.** "Registry identification card" means a document  
26 issued by the department that identifies a person as a registered qualifying patient,  
27 registered primary caregiver or a principal officer, board member, employee or agent of a  
28 nonprofit dispensary.

29       **14. Usable marijuana.** "Usable marijuana" means the dried leaves and flowers of  
30 the marijuana plant, and any mixture or preparation of those dried leaves and flowers, but  
31 does not include the seeds, stalks and roots of the plant and does not include the weight of  
32 other ingredients in marijuana prepared for consumption as food.

33       **15. Visiting qualifying patient.** "Visiting qualifying patient" means a patient with a  
34 debilitating medical condition who is not a resident of this State or who has been a  
35 resident of this State less than 30 days.

36       **16. Written certification.** "Written certification" means a document signed by a  
37 physician and stating that in the physician's professional opinion a patient is likely to  
38 receive therapeutic or palliative benefit from the medical use of marijuana to treat or  
39 alleviate the patient's debilitating medical condition or symptoms associated with the  
40 debilitating medical condition. A written certification may be made only in the course of

1 a bona fide physician-patient relationship after the physician has completed a full  
2 assessment of the qualifying patient's medical history. The written certification must  
3 specify the qualifying patient's debilitating medical condition.

4 **§2423. Protections for the medical use of marijuana**

5 **1. Qualifying patient.** A qualifying patient who has been issued and possesses a  
6 registry identification card may not be subject to arrest, prosecution or penalty in any  
7 manner or denied any right or privilege, including but not limited to a civil penalty or  
8 disciplinary action by a business or occupational or professional licensing board or  
9 bureau, for the medical use of marijuana in accordance with this chapter as long as the  
10 qualifying patient possesses an amount of marijuana that:

11 A. Is not more than 2 1/2 ounces of usable marijuana; and

12 B. If the qualifying patient has not specified that a primary caregiver is allowed  
13 under state law to cultivate marijuana for the qualifying patient, does not exceed 6  
14 marijuana plants, which must be kept in an enclosed, locked facility unless they are  
15 being transported because the qualifying patient is moving or they are being  
16 transported to the qualifying patient's property.

17 **2. Primary caregiver.** A primary caregiver, other than a nonprofit dispensary, who  
18 has been issued and possesses a registry identification card may not be subject to arrest,  
19 prosecution or penalty in any manner or denied any right or privilege, including but not  
20 limited to a civil penalty or disciplinary action by a business or occupational or  
21 professional licensing board or bureau, for assisting a qualifying patient to whom the  
22 primary caregiver is connected through the department's registration process with the  
23 medical use of marijuana in accordance with this chapter as long as the primary caregiver  
24 possesses an amount of marijuana that:

25 A. Is not more than 2 1/2 ounces of usable marijuana for each qualifying patient to  
26 whom the primary caregiver is connected through the department's registration  
27 process; and

28 B. For each qualifying patient who has specified that the primary caregiver is  
29 allowed under state law to cultivate marijuana for the qualifying patient, does not  
30 exceed 6 marijuana plants, which must be kept in an enclosed, locked facility unless  
31 they are being transported because the primary caregiver is moving.

32 **3. Incidental amount of marijuana.** Any incidental amount of seeds, stalks and  
33 unusable roots must be allowed and may not be included in the amounts specified in this  
34 section.

35 **4. Presumption.** There is a presumption that a qualifying patient or primary  
36 caregiver is engaged in the medical use of marijuana in accordance with this chapter if  
37 the qualifying patient or primary caregiver:

38 A. Is in possession of a registry identification card; and

39 B. Is in possession of an amount of marijuana that does not exceed the amount  
40 allowed under this chapter.

1     The presumption may be rebutted by evidence that conduct related to marijuana was not  
2     for the purpose of treating or alleviating the qualifying patient's debilitating medical  
3     condition or symptoms associated with the debilitating medical condition in accordance  
4     with this chapter.

5     **5. Cardholder not subject to arrest.** A cardholder may not be subject to arrest,  
6     prosecution or penalty in any manner or denied any right or privilege, including but not  
7     limited to a civil penalty or disciplinary action by a business or occupational or  
8     professional licensing board or bureau, for giving an amount of marijuana the person is  
9     allowed to possess under subsection 1 or 2 to a cardholder for the registered qualifying  
10    patient's medical use when nothing of value is transferred in return or for offering to do  
11    the same.

12    **6. School, employer or landlord may not discriminate.** A school, employer or  
13    landlord may not refuse to enroll or employ or lease to or otherwise penalize a person  
14    solely for that person's status as a registered qualifying patient or a registered primary  
15    caregiver unless failing to do so would put the school, employer or landlord in violation  
16    of federal law or cause it to lose a federal contract or funding.

17    **7. Person may not be denied custody or visitation of minor.** A person may not be  
18    denied custody or visitation of a minor for acting in accordance with this chapter unless  
19    the person's behavior is such that it creates an unreasonable danger to the minor that can  
20    be clearly articulated and substantiated.

21    **8. Registered primary caregiver may receive compensation for costs.** A  
22    registered primary caregiver may receive compensation for costs associated with assisting  
23    a registered qualifying patient's medical use of marijuana as long as the registered  
24    primary caregiver is connected to the registered qualifying patient through the  
25    department's registration process. Any such compensation does not constitute the sale of  
26    controlled substances.

27    **9. Physician not subject to penalty.** A physician may not be subject to arrest,  
28    prosecution or penalty in any manner or denied any right or privilege, including but not  
29    limited to a civil penalty or disciplinary action by the Board of Licensure in Medicine or  
30    the Board of Osteopathic Licensure or by any other business or occupational or  
31    professional licensing board or bureau, solely for providing written certifications or for  
32    otherwise stating that, in the physician's professional opinion, a patient is likely to receive  
33    therapeutic benefit from the medical use of marijuana to treat or alleviate the patient's  
34    debilitating medical condition or symptoms associated with the debilitating medical  
35    condition except that nothing prevents a professional licensing board from sanctioning a  
36    physician for failing to properly evaluate a patient's medical condition or otherwise  
37    violating the standard of care for evaluating medical conditions.

38    **10. Person not subject to penalty for providing registered qualifying patient or**  
39    **registered primary caregiver marijuana paraphernalia.** A person may not be subject  
40    to arrest, prosecution or penalty in any manner or denied any right or privilege, including  
41    but not limited to a civil penalty or disciplinary action by a business or occupational or  
42    professional licensing board or bureau, for providing a registered qualifying patient or a



1 registered primary caregiver with marijuana paraphernalia for purposes of a qualifying  
2 patient's medical use of marijuana.

3 **11. Property not subject to forfeiture.** Any marijuana, marijuana paraphernalia,  
4 licit property or interest in licit property that is possessed, owned or used in connection  
5 with the medical use of marijuana, as allowed under this chapter, or property incidental to  
6 such use, may not be seized or forfeited.

7 **12. Person not subject to penalty for being in presence of medical use of**  
8 **marijuana.** A person may not be subject to arrest, prosecution or penalty in any manner  
9 or denied any right or privilege, including but not limited to a civil penalty or disciplinary  
10 action by a business or occupational or professional licensing board or bureau, simply for  
11 being in the presence or vicinity of the medical use of marijuana as allowed under this  
12 chapter or for assisting a registered qualifying patient with using or administering  
13 marijuana.

14 **13. Effect of registry identification card issued by another jurisdiction.** A  
15 registry identification card, or its equivalent, that is issued under the laws of another state,  
16 district, territory, commonwealth or insular possession of the United States that allows the  
17 medical use of marijuana by a visiting qualifying patient has the same force and effect as  
18 a registry identification card issued by the department.

19 **§2424. Rules**

20 **1. Rulemaking.** The department may adopt rules to carry out the purposes of this  
21 chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in  
22 Title 5, chapter 375, subchapter 2-A.

23 **2. Adding debilitating medical conditions.** Not later than 120 days after the  
24 effective date of this chapter, the department shall adopt rules that govern the manner in  
25 which the department shall consider petitions from the public to add medical conditions  
26 or treatments to the list of debilitating medical conditions set forth in section 2422,  
27 subsection 2. In considering such petitions, the department shall include public notice of,  
28 and an opportunity to comment in a public hearing upon, such petitions. The department  
29 shall, after hearing, approve or deny such petitions within 180 days of their submission.  
30 The approval or denial of such a petition constitutes final agency action, subject to  
31 judicial review. Jurisdiction and venue for judicial review are vested in the Superior  
32 Court.

33 **3. Registry identification cards.** Not later than 120 days after the effective date of  
34 this chapter, the department shall adopt rules governing the manner in which it considers  
35 applications for and renewals of registry identification cards. The department's rules must  
36 establish application and renewal fees that generate revenues sufficient to offset all  
37 expenses of implementing and administering this chapter. The department may establish a  
38 sliding scale of application and renewal fees based upon a qualifying patient's family  
39 income. The department may accept donations from private sources in order to reduce the  
40 application and renewal fees.

1        **§2425. Registry identification cards**

2        **1. Application for registry identification card; qualifications.** The department  
3        shall issue registry identification cards to qualifying patients who submit the documents  
4        and information described in this subsection, in accordance with the department's rules:

5        A. Written certification;

6        B. Application or renewal fee;

7        C. Name, address and date of birth of the qualifying patient, except that if the  
8        applicant is homeless, no address is required;

9        D. Name, address and telephone number of the qualifying patient's physician;

10       E. Name, address and date of birth of each primary caregiver, if any, of the  
11       qualifying patient. A qualifying patient may designate only one primary caregiver  
12       unless the qualifying patient is under 18 years of age and requires a parent to serve as  
13       a primary caregiver or the qualifying patient designates a nonprofit dispensary to  
14       cultivate marijuana for the qualifying patient's medical use and the qualifying patient  
15       requests the assistance of a second caregiver to assist with the qualifying patient's  
16       medical use; and

17       F. If the qualifying patient designates one or 2 primary caregivers, a designation as to  
18       who will be allowed under state law to cultivate marijuana plants for the qualifying  
19       patient's medical use. Only one person may be allowed to cultivate marijuana plants  
20       for a qualifying patient.

21       **2. Issuing registry identification card to minor.** The department may not issue a  
22       registry identification card to a qualifying patient who is under 18 years of age unless:

23       A. The qualifying patient's physician has explained the potential risks and benefits of  
24       the medical use of marijuana to the qualifying patient and to a parent, guardian or  
25       person having legal custody of the qualifying patient; and

26       B. The parent, guardian or person having legal custody consents in writing to:

27       (1) Allow the qualifying patient's medical use of marijuana;

28       (2) Serve as one of the qualifying patient's primary caregivers; and

29       (3) Control the acquisition of the marijuana, the dosage and the frequency of the  
30       medical use of marijuana by the qualifying patient.

31       **3. Department approval or denial.** The department shall verify the information  
32       contained in an application or renewal submitted pursuant to this section and shall  
33       approve or deny an application or renewal within 30 days of receiving it. The department  
34       may deny an application or renewal only if the applicant did not provide the information  
35       required pursuant to this section or the department determines that the information  
36       provided was falsified. Rejection of an application or renewal is considered a final agency  
37       action, subject to judicial review. Jurisdiction and venue for judicial review are vested in  
38       the Superior Court.

1       **4. Primary caregiver registry identification card.** The department shall issue a  
2 registry identification card to each primary caregiver, if any, who is named in a qualifying  
3 patient's approved application pursuant to subsection 1, paragraph E. Only one person  
4 may cultivate marijuana for the qualifying patient's medical use, who is determined based  
5 solely on the qualifying patient's preference. That person may either be the qualifying  
6 patient or one of the 2 primary caregivers.

7       **5. Registry identification card issuance.** The department shall issue registry  
8 identification cards to qualifying patients and to primary caregivers within 5 days of  
9 approving an application or renewal under this section. Registry identification cards  
10 expire one year after the date of issuance. Registry identification cards must contain:

11       A. The name, address and date of birth of the qualifying patient;

12       B. The name, address and date of birth of each primary caregiver, if any, of the  
13 qualifying patient;

14       C. The date of issuance and expiration date of the registry identification card;

15       D. A random identification number that is unique to the cardholder;

16       E. A photograph, if the department decides to require one; and

17       F. A clear designation showing whether the cardholder will be allowed under state  
18 law to cultivate marijuana plants for the qualifying patient's medical use, which must  
19 be determined based solely on the qualifying patient's preference.

20       **6. Notification of changes in status or loss of card.** This subsection governs  
21 notification of changes in status or the loss of a registry identification card.

22       A. A registered qualifying patient shall notify the department within 10 days of any  
23 change in the registered qualifying patient's name, address, primary caregiver or  
24 preference regarding who may cultivate marijuana for the registered qualifying  
25 patient or if the registered qualifying patient ceases to have a debilitating medical  
26 condition.

27       B. A registered qualifying patient who fails to notify the department as required  
28 under paragraph A commits a civil violation for which a fine of not more than \$150  
29 may be adjudged. If the registered qualifying patient's certifying physician notifies  
30 the department in writing that the registered qualifying patient has ceased to suffer  
31 from a debilitating medical condition, the registered qualifying patient's registry  
32 identification card becomes void upon notification by the department to the  
33 qualifying patient.

34       C. A registered primary caregiver shall notify the department of any change in the  
35 caregiver's name or address within 10 days of such change. A registered primary  
36 caregiver who fails to notify the department of any of these changes commits a civil  
37 violation for which a fine of not more than \$150 may be adjudged.

38       D. When a registered qualifying patient or registered primary caregiver notifies the  
39 department of any changes listed in this subsection, the department shall issue the  
40 registered qualifying patient and each registered primary caregiver a new registry  
41 identification card within 10 days of receiving the updated information and a \$10 fee.

1 E. When a registered qualifying patient changes the patient's registered primary  
2 caregiver, the department shall notify the old primary caregiver within 10 days. The  
3 old primary caregiver's protections as provided in this chapter expire 10 days after  
4 notification by the department.

5 F. If a cardholder loses the cardholder's registry identification card, the cardholder  
6 shall notify the department and submit a \$10 fee within 10 days of losing the card.  
7 Within 5 days after such notification, the department shall issue a new registry  
8 identification card with a new random identification number.

9 **7. Possession of or application for card not probable cause for search.**  
10 Possession of, or application for, a registry identification card does not constitute  
11 probable cause or reasonable suspicion, nor may it be used to support the search of the  
12 person or property of the person possessing or applying for the registry identification  
13 card. The possession of, or application for, a registry identification card does not prevent  
14 the issuance of a warrant if probable cause exists on other grounds.

15 **8. Confidentiality.** This subsection governs confidentiality.

16 A. Applications and supporting information submitted by qualifying patients under  
17 this chapter, including information regarding their primary caregivers and physicians,  
18 are confidential.

19 B. Applications and supporting information submitted by primary caregivers  
20 operating in compliance with this chapter, including the physical address of a  
21 nonprofit dispensary, are confidential.

22 C. The department shall maintain a confidential list of the persons to whom the  
23 department has issued registry identification cards. Individual names and other  
24 identifying information on the list are confidential, exempt from the freedom of  
25 access laws, Title 1, chapter 13, and not subject to disclosure except to authorized  
26 employees of the department as necessary to perform official duties of the  
27 department.

28 D. The department shall verify to law enforcement personnel whether a registry  
29 identification card is valid without disclosing more information than is reasonably  
30 necessary to verify the authenticity of the registry identification card.

31 E. A person, including an employee or official of the department or another state  
32 agency or local government, who breaches the confidentiality of information obtained  
33 pursuant to this chapter commits a Class E crime. Notwithstanding this subsection,  
34 department employees may notify law enforcement about falsified or fraudulent  
35 information submitted to the department as long as the employee who suspects that  
36 falsified or fraudulent information has been submitted confers with the employee's  
37 supervisor and both agree that circumstances exist that warrant reporting.

38 **9. Cardholder who sells marijuana to person not allowed to possess.** Any  
39 cardholder who sells marijuana to a person who is not allowed to possess marijuana for  
40 medical purposes under this chapter must have that cardholder's registry identification  
41 card revoked and is liable for any other penalties for the sale of marijuana. The

1 department may revoke the registry identification card of any cardholder who violates  
2 this chapter, and the cardholder is liable for any other penalties for the violation.

3 **10. Annual report.** The department shall submit to the Legislature an annual report  
4 that does not disclose any identifying information about cardholders or physicians, but  
5 does contain, at a minimum:

6 A. The number of applications and renewals filed for registry identification cards;

7 B. The number of qualifying patients and primary caregivers approved in each  
8 county;

9 C. The nature of the debilitating medical conditions of the qualifying patients;

10 D. The number of registry identification cards revoked;

11 E. The number of physicians providing written certifications for qualifying patients;

12 F. The number of registered nonprofit dispensaries; and

13 G. The number of principal officers, board members, employees and agents of  
14 nonprofit dispensaries.

15 **§2426. Scope**

16 **1. Limitations.** This chapter does not permit any person to:

17 A. Undertake any task under the influence of marijuana when doing so would  
18 constitute negligence or professional malpractice;

19 B. Possess marijuana or otherwise engage in the medical use of marijuana:

20 (1) In a school bus;

21 (2) On the grounds of any preschool or primary or secondary school; or

22 (3) In any correctional facility;

23 C. Smoke marijuana:

24 (1) On any form of public transportation; or

25 (2) In any public place;

26 D. Operate, navigate or be in actual physical control of any motor vehicle, aircraft or  
27 motorboat while under the influence of marijuana; or

28 E. Use marijuana if that person does not have a debilitating medical condition.

29 **2. Construction.** This chapter may not be construed to require:

30 A. A government medical assistance program or private health insurer to reimburse a  
31 person for costs associated with the medical use of marijuana; or

32 B. An employer to accommodate the ingestion of marijuana in any workplace or any  
33 employee working while under the influence of marijuana.

34 **3. Penalty for fraudulent representation.** Fraudulent representation to a law  
35 enforcement official of any fact or circumstance relating to the medical use of marijuana

1 to avoid arrest or prosecution is a civil violation punishable by a fine of \$500, which must  
2 be in addition to any other penalties that may apply for making a false statement or for  
3 the use of marijuana other than use undertaken pursuant to this chapter.

4 **§2427. Affirmative defense and dismissal for medical marijuana**

5 **1. Affirmative defense.** Except as provided in section 2426, a qualifying patient and  
6 a qualifying patient's primary caregiver, other than a nonprofit dispensary, may assert the  
7 medical purpose for using marijuana as a defense to any prosecution involving marijuana,  
8 and this defense must be presumed valid where the evidence shows that:

9 A. A physician has stated that, in the physician's professional opinion, after having  
10 completed a full assessment of the qualifying patient's medical history and current  
11 medical condition made in the course of a bona fide physician-patient relationship,  
12 the qualifying patient is likely to receive therapeutic or palliative benefit from the  
13 medical use of marijuana to treat or alleviate the qualifying patient's debilitating  
14 medical condition or symptoms associated with the qualifying patient's debilitating  
15 medical condition;

16 B. The qualifying patient and the qualifying patient's primary caregiver, if any, were  
17 collectively in possession of a quantity of marijuana that was not more than was  
18 reasonably necessary to ensure the uninterrupted availability of marijuana for the  
19 purpose of treating or alleviating the qualifying patient's debilitating medical  
20 condition or symptoms associated with the qualifying patient's debilitating medical  
21 condition; and

22 C. The qualifying patient and the qualifying patient's primary caregiver, if any, were  
23 engaged in the acquisition, possession, cultivation, manufacture, use, delivery,  
24 transfer or transportation of marijuana or paraphernalia relating to the administration  
25 of marijuana solely to treat or alleviate the qualifying patient's debilitating medical  
26 condition or symptoms associated with the qualifying patient's debilitating medical  
27 condition.

28 **2. Motion to dismiss.** A person may assert the medical purpose for using marijuana  
29 in a motion to dismiss, and the charges must be dismissed following an evidentiary  
30 hearing where the person proves the elements listed in subsection 1.

31 **3. No sanction for medical use of marijuana.** If a qualifying patient or a qualifying  
32 patient's primary caregiver demonstrates the qualifying patient's medical purpose for  
33 using marijuana pursuant to this section, the qualifying patient and the qualifying patient's  
34 primary caregiver may not be subject, for the qualifying patient's medical use of  
35 marijuana, to any state sanction, including:

36 A. Disciplinary action by a business or occupational or professional licensing board  
37 or bureau; and

38 B. Forfeiture of any interest in or right to property.

1        **§2428. Nonprofit dispensaries**

2                **1. Provisions pertaining to primary caregiver apply to nonprofit dispensary.**

3        All provisions of this chapter pertaining to a primary caregiver apply to a nonprofit  
4        dispensary unless they conflict with a provision contained in this section.

5                **2. Registration requirements.** This subsection governs the registration of a  
6        nonprofit dispensary.

7                A. The department shall register a nonprofit dispensary and issue a registration  
8        certificate within 30 days to any person or entity that provides:

9                    (1) A fee paid to the department in the amount of \$5,000;

10                  (2) The legal name of the nonprofit dispensary;

11                  (3) The physical address of the nonprofit dispensary and the physical address of  
12        one additional location, if any, where marijuana will be cultivated;

13                  (4) The name, address and date of birth of each principal officer and board  
14        member of the nonprofit dispensary; and

15                  (5) The name, address and date of birth of any person who is an agent of or  
16        employed by the nonprofit dispensary.

17                B. The department shall track the number of registered qualifying patients who  
18        designate a nonprofit dispensary as a primary caregiver and issue to each nonprofit  
19        dispensary a written statement of the number of qualifying patients who have  
20        designated the nonprofit dispensary to cultivate marijuana for them. This statement  
21        must be updated each time a new registered qualifying patient designates the  
22        nonprofit dispensary or ceases to designate the nonprofit dispensary and may be  
23        transmitted electronically if the department's rules so provide. The department may  
24        provide by rule that the updated written statements may not be issued more frequently  
25        than once each week.

26                C. The department shall issue each principal officer, board member, agent and  
27        employee of a nonprofit dispensary a registry identification card within 10 days of  
28        receipt of the person's name, address and date of birth under paragraph A and a fee in  
29        an amount established by the department. Each card must specify that the cardholder  
30        is a principal officer, board member, agent or employee of a nonprofit dispensary and  
31        must contain:

32                    (1) The name, address and date of birth of the principal officer, board member,  
33        agent or employee;

34                    (2) The legal name of the nonprofit dispensary with which the principal officer,  
35        board member, agent or employee is affiliated;

36                    (3) A random identification number that is unique to the cardholder;

37                    (4) The date of issuance and expiration date of the registry identification card;  
38        and

39                    (5) A photograph, if the department decides to require one.

1       D. The department may not issue a registry identification card to any principal  
2       officer, board member, agent or employee of a nonprofit dispensary who has been  
3       convicted of a felony drug offense. The department may conduct a background check  
4       of each principal officer, board member, agent or employee in order to carry out this  
5       provision. The department shall notify the nonprofit dispensary in writing of the  
6       purpose for denying the registry identification card.

7       **3. Rules.** Not later than 120 days after the effective date of this chapter, the  
8       department shall adopt rules governing the manner in which it considers applications for  
9       and renewals of registration certificates for nonprofit dispensaries, including rules  
10      governing:

11      A. The form and content of registration and renewal applications;

12      B. Minimum oversight requirements for nonprofit dispensaries;

13      C. Minimum record-keeping requirements for nonprofit dispensaries;

14      D. Minimum security requirements for nonprofit dispensaries; and

15      E. Procedures for suspending or terminating the registration of nonprofit dispensaries  
16      that violate the provisions of this section or the rules adopted pursuant to this  
17      subsection.

18      **4. Expiration.** A nonprofit dispensary registration certificate and the registry  
19      identification card for each principal officer, board member, agent or employee expire  
20      one year after the date of issuance. The department shall issue a renewal nonprofit  
21      dispensary registration certificate and renewal registry identification cards within 10 days  
22      to any person who complies with the requirements contained in subsection 2. A registry  
23      identification card of a principal officer, board member, agent or employee expires 10  
24      days after notification by a nonprofit dispensary that such person ceases to work at the  
25      nonprofit dispensary.

26      **5. Inspection.** A nonprofit dispensary is subject to reasonable inspection by the  
27      department. The department shall give reasonable notice of an inspection under this  
28      subsection.

29      **6. Nonprofit dispensary requirements.** This subsection governs the operations of  
30      nonprofit dispensaries.

31      A. A nonprofit dispensary must be operated on a not-for-profit basis for the mutual  
32      benefit of its members and patrons. The bylaws of a nonprofit dispensary and its  
33      contracts with patrons must contain such provisions relative to the disposition of  
34      revenues and receipts as may be necessary and appropriate to establish and maintain  
35      its nonprofit character. A nonprofit dispensary need not be recognized as a tax-  
36      exempt organization under 26 United States Code, Section 501(c)(3) and is not  
37      required to incorporate pursuant to Title 13-B.

38      B. A nonprofit dispensary may not be located within 500 feet of the property line of  
39      a preexisting public or private school.



1 C. A nonprofit dispensary shall notify the department within 10 days of when a  
2 principal officer, board member, agent or employee ceases to work at the nonprofit  
3 dispensary.

4 D. A nonprofit dispensary shall notify the department in writing of the name, address  
5 and date of birth of any new principal officer, board member, agent or employee and  
6 shall submit a fee in an amount established by the department for a new registry  
7 identification card before the new principal officer, board member, agent or employee  
8 begins working at the nonprofit dispensary.

9 E. A nonprofit dispensary shall implement appropriate security measures to deter and  
10 prevent unauthorized entrance into areas containing marijuana and the theft of  
11 marijuana.

12 F. The operating documents of a nonprofit dispensary must include procedures for  
13 the oversight of the nonprofit dispensary and procedures to ensure accurate record  
14 keeping.

15 G. A nonprofit dispensary is prohibited from acquiring, possessing, cultivating,  
16 manufacturing, delivering, transferring, transporting, supplying or dispensing  
17 marijuana for any purpose except to assist registered qualifying patients with the  
18 medical use of marijuana directly or through the registered qualifying patients' other  
19 primary caregivers.

20 H. All principal officers and board members of a nonprofit dispensary must be  
21 residents of this State.

22 I. All cultivation of marijuana must take place in an enclosed, locked facility.

23 **7. Maximum amount of medical marijuana to be dispensed.** A nonprofit  
24 dispensary or a principal officer, board member, agent or employee of a nonprofit  
25 dispensary may not dispense more than 2 1/2 ounces of usable marijuana to a qualifying  
26 patient or to a primary caregiver on behalf of a qualifying patient during a 15-day period.

27 **8. Immunity.** This subsection governs immunity for a nonprofit dispensary.

28 A. A nonprofit dispensary may not be subject to prosecution, search, seizure or  
29 penalty in any manner or denied any right or privilege, including but not limited to a  
30 civil penalty or disciplinary action by a business or occupational or professional  
31 licensing board or entity, solely for acting in accordance with this section to provide  
32 usable marijuana to or to otherwise assist registered qualifying patients to whom it is  
33 connected through the department's registration process with the medical use of  
34 marijuana.

35 B. Principal officers, board members, agents and employees of a registered  
36 nonprofit dispensary may not be subject to arrest, prosecution, search, seizure or  
37 penalty in any manner or denied any right or privilege, including but not limited to a  
38 civil penalty or disciplinary action by a business or occupational or professional  
39 licensing board or entity, solely for working for or with a nonprofit dispensary to  
40 provide usable marijuana to or to otherwise assist registered qualifying patients to  
41 whom the nonprofit dispensary is connected through the department's registration  
42 process with the medical use of marijuana in accordance with this chapter.

1       **9. Prohibitions.** The prohibitions in this subsection apply to a nonprofit dispensary.

2       A. A nonprofit dispensary may not possess more than 6 live marijuana plants for  
3 each registered qualifying patient who has designated the nonprofit dispensary as a  
4 primary caregiver and designated that the dispensary will be permitted to cultivate  
5 marijuana for the registered qualifying patient's medical use.

6       B. A nonprofit dispensary may not dispense, deliver or otherwise transfer marijuana  
7 to a person other than a qualifying patient who has designated the nonprofit  
8 dispensary as a primary caregiver or to the patient's other registered primary  
9 caregiver.

10       C. The department shall immediately revoke the registry identification card of a  
11 principal officer, board member, employee or agent of a nonprofit dispensary who is  
12 found to have violated paragraph B, and such a person is disqualified from serving as  
13 a principal officer, board member, employee or agent of a nonprofit dispensary.

14       D. A person who has been convicted of a felony drug offense may not be a principal  
15 officer, board member, agent or employee of a nonprofit dispensary.

16           (1) A person who is employed by or is an agent, principal officer or board  
17 member of a nonprofit dispensary in violation of this paragraph commits a civil  
18 violation for which a fine of not more than \$1,000 may be adjudged.

19           (2) A person who is employed by or is an agent, principal officer or board  
20 member of a nonprofit dispensary in violation of this paragraph and who at the  
21 time of the violation has been previously found to have violated this paragraph  
22 commits a Class D crime.

23       E. A nonprofit dispensary may not acquire usable marijuana or mature marijuana  
24 plants except through the cultivation of marijuana by that nonprofit dispensary.

25       **10. Local regulation.** This chapter does not prohibit a political subdivision of this  
26 State from limiting the number of nonprofit dispensaries that may operate in the political  
27 subdivision or from enacting reasonable zoning regulations applicable to nonprofit  
28 dispensaries.

29       **§2429. Enforcement**

30       **1. Department fails to adopt rules.** If the department fails to adopt rules to  
31 implement this chapter within 120 days of the effective date of this chapter, a qualifying  
32 patient may commence an action in Superior Court to compel the department to perform  
33 the actions mandated pursuant to the provisions of this chapter.

34       **2. Department fails to issue a valid registry identification card.** If the department  
35 fails to issue a valid registry identification card or a registration certificate in response to  
36 a valid application or renewal submitted pursuant to this chapter within 45 days of its  
37 submission, the registry identification card or registration certificate is deemed granted,  
38 and a copy of the registry identification application or renewal is deemed a valid registry  
39 identification card.

**3. Department fails to accept applications.** If at any time after the 140 days following the effective date of this chapter the department is not accepting applications, including if it has not adopted rules allowing qualifying patients to submit applications, a notarized statement by a qualifying patient containing the information required in an application, pursuant to section 2425, subsection 1, is deemed a valid registry identification card.

## SUMMARY

Current law allows a person who has been diagnosed by a physician as suffering from certain medical conditions to possess marijuana for medical use. This initiated bill changes the description of the medical conditions for which the medical use of marijuana is permitted. It directs the Department of Health and Human Services to issue registry identification cards to patients who qualify to possess marijuana for medical use and to their designated primary caregivers. It sets limits on the amount of marijuana that may be possessed by qualifying patients and their designated primary caregivers. It allows the establishment of nonprofit dispensaries to provide marijuana to qualifying patients and directs the Department of Health and Human Services to issue a registration certificate to a nonprofit dispensary that meets certain criteria. It directs the Department of Health and Human Services to establish application and renewal fees sufficient to pay the expenses of implementing and administering the provisions of the initiated bill.

STATE OF MAINE  
124TH LEGISLATURE

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LEGISLATIVE NOTICES

JOINT STANDING COMMITTEE ON HEALTH AND HUMAN SERVICES

Sen. Joseph C. Brannigan, Senate Chair  
Rep. Anne C. Perry, House Chair

PUBLIC HEARING: Monday, April 13, 2009, 1:00 PM, Room 209 Cross Office Building

- (L.D. 975) Bill "An Act To Establish the Maine Medical Marijuana Act" (IB0002)
- (L.D. 1070) Bill "Resolve, Directing the University of Maine at Orono To Conduct a Pilot Project Regarding the Benefits of Medical Marijuana" (HP0737) (Presented by Representative PERCY of Phippsburg) (Cosponsored by Senator DAMON of Hancock, Senator PERRY of Penobscot, Representative FLEMINGS of Bar Harbor, Representative MCCABE of Skowhegan, Representative SMITH of Monmouth, Representative WATSON of Bath)
- (L.D. 1291) Bill "Resolve, Establishing a Study Commission on In Utero Narcotic Drug Exposure" (SP0473) (EMERGENCY) (Presented by Senator MCCORMICK of Kennebec) (Cosponsored by Senator DIAMOND of Cumberland, Senator MARRACHE of Kennebec, Senator MILLS of Somerset, Representative FLOOD of Winthrop) Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.
- (L.D. 1339) Bill "An Act To Improve Oversight of Pharmaceutical Purchasing" (HP0940) (Presented by Representative TREAT of Hallowell) (Cosponsored by Senator ALFOND of Cumberland, Senator CRAVEN of Androscoggin, Representative BUTTERFIELD, II of Bangor, Representative CAIN of Orono, Representative CONNOR of Kennebunk, Representative HILL of York, Representative MARTIN of Eagle Lake, Representative PERRY of Calais, Representative WEBSTER of Freeport)
- (L.D. 1354) Bill "Resolve, Directing the Department of Health and Human Services To Limit Prescriptions for Narcotic Drugs under MaineCare without Prior Authorization" (SP0489) (Presented by Senator MILLS of Somerset)
- (L.D. 1359) Bill "An Act To Improve the Use of Data from the Controlled Substances Prescription Monitoring Program" (SP0494) (Presented by Senator MILLS of Somerset)

CONTACT PERSON:

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Jan Clark  
100 State House Station  
Augusta, ME 04333-0100  
287-1317

WORK SESSION AGENDA  
HEALTH AND HUMAN SERVICES

4/15/2009  
3:00 PM  
Room 209 Cross Office Building

- (L.D. 975) Bill "An Act To Establish the Maine Medical Marijuana Act" (IB0002)
- (L.D. 1070) Bill "Resolve, Directing the University of Maine at Orono To Conduct a Pilot Project Regarding the Benefits of Medical Marijuana" (HP0737) (Presented by Representative PERCY of Phippsburg) (Cosponsored by Senator DAMON of Hancock, Senator PERRY of Penobscot, Representative FLEMINGS of Bar Harbor, Representative MCCABE of Skowhegan, Representative SMITH of Monmouth, Representative WATSON of Bath)
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CONTACT PERSON:

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Jan Clark  
100 State House Station  
Augusta, ME 04333-0100  
287-1317

[illegible]

To: Committee on Health and Human Services  
from: Dave Wilkinson  
date: April 13, 2009

re: LD 975 Testimony in opposition with regret

My name is Dave Wilkinson. I am a resident of Harpswell, 64 years old, a videographer, musician, grandfather and medical cannabis patient. I was diagnosed two years ago with stage 2 prostate cancer and also a form of leukemia known as CLL. I have been prescribed powerful hormone blockers which can temporarily delay the progress of the prostate condition, but my doctors tell me there is no cure for either of the two cancers.

I have letters from two doctors authorizing my use of medical cannabis. I will use this neutral scientific term in preference to the offensive racist term. The medicine helps offset the effects of cachexia (weight loss) caused by both cancers and the chemical therapy. I am on a special high protein diet and take 40 natural supplements daily. This regimen, under the supervision of a Naturopath, has recently shown measurable progress against both cancers.

I attribute this progress, which doctors find "remarkable," to the combination of my special diet, exercise program, plant-based supplements and medical cannabis.

In 1974, two years after President Nixon's Schaefer Commission (which called for decriminalization of cannabis), researchers at the Medical College of Virginia, who had been funded by the National Institutes of Health to find evidence that cannabis damages the immune system, found instead the medicinal value of cannabis in cancer treatment. THC slowed the growth of three kinds of cancer in mice — lung and breast cancer, and a virus-induced leukemia.

Nixon's DEA, in a criminal act, shut down this research. It remains shut down to this day. Recent studies outside the USA, where science is unrestricted by politics, have proven that cannabinoids stop cancer growth in seven types of cancer, including the two I have. It is not unreasonable to suppose that if science had been permitted to proceed 35 years ago, that there would now be standard cannabinoid-based therapies available for cancer. Millions of lives might have been extended. As it is, we patients are on our own.

While my access to medical cannabis is permitted under Maine law for its palliative properties, which are vital, I believe that cannabis may also help to effect a remission in one or both of my cancers. I am quick to add that this is my personal position, based on my own readings, research and personal experience, and not that of my doctors, who, as stated previously, do not offer a cure.

We cancer patients tend to believe in miracles. It's all we have left. This is where politics become personal.

I thank the people of Maine, who voted by a strong majority ten years ago to let doctors decide what is the best medicine for patients. The people are far ahead of public officials in this matter.

I come here also as a member of the Unitarian Universalist Church, which in 2002 issued a Statement of Conscience regarding drug policy. Among its many proposals is the taxation/regulation of cannabis on the model of alcohol.

That would make the question of medical cannabis a moot one.

A member of my family recently obtained 20 tablets of Vicodin as a routine medication for pain following tooth surgery. The person needed only six tablets, leaving fourteen. Such tablets are sitting by the hundreds of thousands in homes across Maine and America. Vicodin is a highly toxic, addictive, dangerous substance, yet it is handled with moderate to zero security. Alcohol, one of the most toxic and addictive substances commonly consumed by humans, with few medical uses, is available everywhere.

LD 975 asks medical cannabis patients to become a medical underclass, required to carry a card, provide extensive information, and expose themselves to the whims of a government who now knows for sure who they are. Suppose the political winds blow another way in a few years. Do patients want themselves on a list? To be card carriers?

LD 975 treats a nontoxic herbal plant as if it were plutonium. Far more deadly are police harassment, employment problems and social stigma. Will LD 975 make patients feel secure, or merely vulnerable?

In this establishment of a dispensary system, what safety is provided to patients who are able to grow their own medicine? Those who may need to cultivate varieties specific to their conditions? Do these patients become drug dealers if they have seven plants, one beyond the limit? What is the need for the official obsession with quantity, with plant-counting? If a patient or caregiver is authorized to provide an adequate supply of cannabis, why should anyone be concerned what growing techniques are used? If the medicine is held by the patient/caregiver, why does the quantity become a magic wand which can transform a protected patient with six plants into a criminal with seven plants?

If medical cannabis is sold illegally, it is the job of law enforcement to prove it in court. Arbitrary quantity limits remove the need for proof. No buys, no other evidence, no activity. Just a quantity. It's a legal system based on magical formulas, similar to the one used to hang Salem witches back in 1692. Back then they called it "spectral evidence," the non-material, non-factual, disembodied commission of a "crime." Today they call it "intent to distribute."

The concept of a non-profit dispensary is the most laudable aspect of LD 975. The Wo/Mens Alliance for Medical Marijuana in Santa Cruz, California is the "gold standard," of medical cannabis, with patients working together for the good of all. LD 975 appears to



emulate that generous, humanitarian spirit, but in fact puts patients at even greater risk and under a heavier burden.

What is the true objective here? If it is to help patients, LD 975 as presently drafted does the opposite. We do not need cards. We need cannabis.

Apparently, patient access to medical cannabis was not accomplished ten years ago, though it was the manifest will of the voters, many of whom are expressing surprise that any change is needed. Let us hope that Maine will have a working medical cannabis law this time. Some of us may not be here to testify again in another ten years.

## Former Drug Free America Director Endorses Medical Marijuana

by David E. Krah, Ph.D., Opposing Views  
March 26th, 2009

Ushering in a new level of optimism in Washington, DC and around the country, the Obama Administration recently signaled a sea change in drug enforcement policy. Last month, Attorney General Eric Holder affirmed an earlier commitment by the President to end federal raids on medical marijuana dispensaries. Despite the country's woes, from a worsening economy to a war on several fronts, the Drug Enforcement Administration (DEA) has found the time, energy, and resources to continue its nonsensical effort to undermine the duly enacted medical marijuana laws of California and other states. That was, until the Attorney General announced a new approach to the failed war on medical marijuana.

Contrary to scientific opinion, the U.S. government still posits that marijuana has no medical value. Not only has the government used this position to harmfully intrude in the lives of our most vulnerable citizens, it has done so with scorn for the voters and legislatures that enacted state medical marijuana laws. Even though the White House had earlier indicated its intent to end federal raids in medical marijuana states, the yet still-seated Bush Administration officials continued a policy of rabid enforcement based on expediency. For example, even after President Obama took office on January 20, six licensed medical marijuana dispensaries were raided by the DEA.

There was a point in my professional career as Deputy Director of the Drug Free America Foundation when I supported the prohibition of marijuana as medicine. But then, I experienced a change of heart, if you will; a moment of clarity, an epiphany. After seriously investigating the issue, and getting beyond the rhetorical arguments of both sides, I began to realize that the prohibitionist viewpoint against the use of marijuana as medicine largely ignored three things, which are so embedded in the fabric of American society and reflective of our cultural values that their truth is almost self-evident.

First and foremost, the issue of marijuana as medicine is largely a states' rights issue. From a purely Constitutional point of view, individual states are empowered to chart their own legislative courses, and act as autonomous, self-determining governing entities that are best suited to adopt laws regarding the health and welfare of their citizens. At the latest count, thirteen states have enacted medical marijuana laws either by ballot initiative or legislation. Unfortunately, the federal government up to now has selectively used the federalist tenet of states' rights only when it's politically convenient to do so.

Second, it's an issue of the relationship between physician and patient. Based on long-standing tradition, custom, and practice, the relationship between doctor and patient is sacrosanct. Fundamentally, the treatment regimen prescribed or recommended by the physician is a private matter. The government simply has no business intruding on a patient's prescribed or recommended course of treatment.

Third, it's an issue regarding the greater domain of a citizen's right to privacy. As Justice Louis Brandeis so eloquently opined in 1928, we as citizens of the United States have "the right to be let alone." And, as Erwin Griswold, the former dean of the Harvard Law School remarked in 1960, "the right to be let alone is the underlying principle of the Constitution's Bill of Rights." So fundamental is this right to privacy is that it has been applied to a panoply of situations that have undergone and withstood judicial scrutiny, and clearly substantiated in a host of Supreme Court decisions dating back nearly one hundred years.

Now, given the new Administration's apparent willingness to change an outdated policy with regard to medical marijuana, what more is needed? A good place to start would be to reverse the indefensible position by the Food & Drug Administration (FDA) made in 2006 that "marijuana has no currently accepted medical use." In fact, not only has the FDA approved several studies that highlighted the medical efficacy of marijuana, but many other studies conducted abroad have also come to the same conclusion: marijuana, indeed, has therapeutic value.

Advocates like Americans for Safe Access continue to call for a different approach to medical marijuana, away from the tired rhetoric of the past toward a more fact- and science-based vision of the future. Quite simply, their policy recommendations for the Obama Administration rightly called for an end to DEA raids, but also encouraged an expansion of research into medical marijuana, and the development of a comprehensive federal policy that ensures protection for any American that might benefit from this medicine.

Let's hope that the new White House policy position means a new thoughtful, more deliberate, compassionate, and rational approach to the issue of medical marijuana. Thus far, we're off to a good start! But, it's up to us to demand not only changes to the government's enforcement approach, but also increased research and access to this promising medicine.

***David E. Krah, is the former Deputy Director of Drug Free America Foundation and lives in St. Petersburg, Florida.***

Testimony of the  
Office of Substance Abuse Services  
Department of Health and Human Services

Before the Joint Standing Committee on Health and Human Services

In Opposition to LD 975  
An Act to Establish the Maine Medical Marijuana Act  
and  
LD 1070 Resolve, Directing the University of Maine at Orono to Conduct a  
Pilot Project Regarding the Benefits of Medical Marijuana

April 13, 2009

Senator Brannigan, Representative Perry, and Members of the Joint Standing Committee on Health and Human Services, my name is Guy Cousins and I serve as the Director of the Office of Substance Abuse (OSA) within the Department of Health and Human Services. I am testifying in opposition both to LD 975, An Act to Establish the Maine Medical Marijuana Act and to LD 1070 Resolve, Directing the University of Maine at Orono to Conduct a Pilot Project Regarding the Benefits of Medical Marijuana.

It is important to understand the Maine Office of Substance Abuse is the single state administrative authority responsible for the planning, development, implementation, regulation, and evaluation of substance abuse services. In that role, we have a number of objections to this legislation.

First, these bills create significant access to marijuana. Reducing access to a substance has been a successful environmental prevention strategy for OSA in reducing use. They create non-profit dispensaries for the purpose of disbursing marijuana to a qualifying patient or their care-giver. LD 975 allows the individual/care-giver access to 2 ½ ounces of marijuana every 15 day period. This creates an access issue to marijuana for non-qualifying individuals. We know from our work with scheduled prescription drugs that the three most common methods of diversion involve family and friends; the prescribed drugs are given to them, sold to them or stolen from them. This creates a public safety issue which will be addressed by the Department of Public Safety.

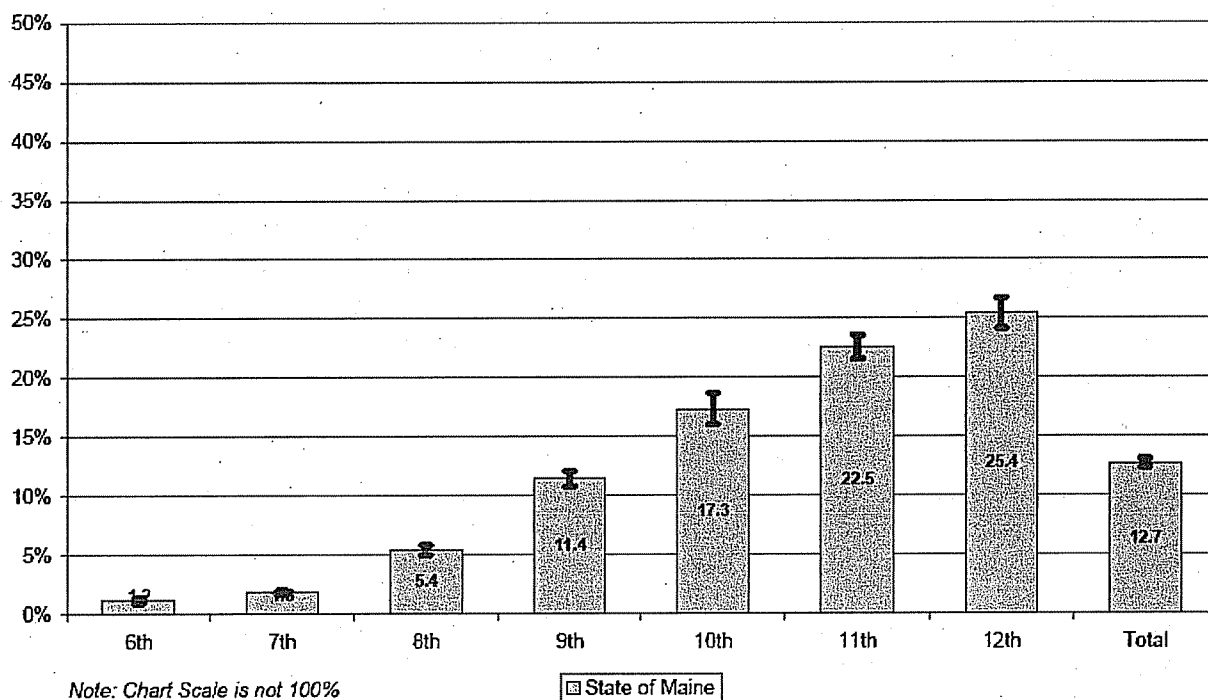
Also, it is important to note that Marijuana is a Scheduled III drug and as such would be required to be part of the Department's Prescription Monitoring Program. Whenever a prescription would be filled at a non-profit dispensary, patient information regarding that prescription would be sent to the PMP database, in which any caregiver working with that qualifying patient could access that information, just like any other Scheduled II-IV medication. There would be additional costs associated with that addition to the PMP.

The second objection relates to health concerns. Two major reports address medicinal marijuana use; Institute of Medicine Report (1999) and the National Institute of Health Report (1997). Both reports weigh out the therapeutic benefits of short-term use versus the health risks associated with smoking marijuana. Alternative delivery mechanisms were recommended in both reports to reduce further health complications and to better modulate dosing levels not controlled by smoking. Both reports suggest further clinical studies and trials to further the study of medicinal marijuana. From a clinical and ethical standpoint, the Department has strong

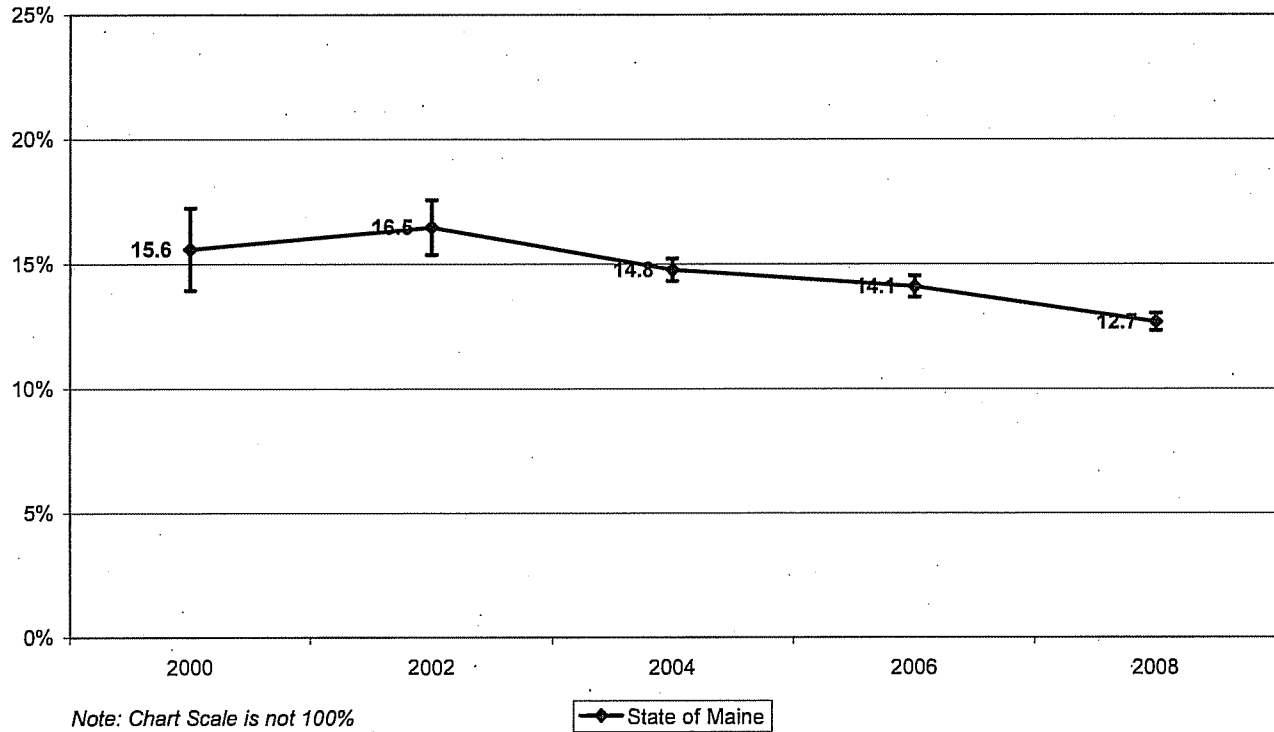
concerns about the State of Maine providing a drug with a distribution and delivery system that carries with it significant toxicity and risk.

For these reasons, the Department opposes both LD 975 and LD 1070. Thank you and I am available to answer any questions you might have.

**MARIJUANA - Prior 30-Day Use  
State of Maine, by Grade, 2008**



### MARIJUANA - Trend in Prior 30-Day Use State of Maine



### MARIJUANA - Trend in Prior 30-Day Use State of Maine

| Year | State of Maine |       |       |
|------|----------------|-------|-------|
|      | LCL            | %     | UCL   |
| 2000 | 13.9%          | 15.6% | 17.2% |
| 2002 | 15.4%          | 16.5% | 17.6% |
| 2004 | 14.3%          | 14.8% | 15.2% |
| 2006 | 13.7%          | 14.1% | 14.5% |
| 2008 | 12.3%          | 12.7% | 13.0% |

*LCL: 95% Lower confidence limit. UCL: 95% Upper confidence limit.*

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June 9, 2008

## Marijuana Hotbed Retreats on Medicinal Use

By JESSE McKINLEY

UKIAH, Calif. — There is probably no marijuana-friendlier place in the country than here in Mendocino County, where plants can grow more than 15 feet high, medical marijuana clubs adopt stretches of highway, and the sticky, sweet aroma of cannabis fills this city's streets during the autumn harvest.

Lately, however, residents of Mendocino County, like those in other parts of California, are wondering if the state's embrace of marijuana for medicinal purposes has gone too far.

Medical marijuana was legalized under state law by California voters in 1996, and since then 11 other states have followed, even though federal law still bans the sale of any marijuana. But some frustrated residents and law enforcement officials say the California law has increasingly and unintentionally provided legal cover for large-scale marijuana growers — and the problems such big-money operations can attract.

"It's a clear shield for commercial operations," said Mike Sweeney, 60, a supporter of both medical marijuana and a local ballot measure on June 3 that called for new limits on the drug in Mendocino. "And we don't want those here."

The outcome of the ballot measure is not known, as votes are still being counted, but such community push-back is increasingly common across the state, even in the most liberal communities. In recent years, dozens of local governments have banned or restricted cannabis clubs, more formally known as dispensaries, that provide medical marijuana, in the face of public safety issues involved in its sale and cultivation, including crime and environmental damage.

"If folks had to get their dope, sorry, they would just have to get it somewhere else," said Sheriff Mark Pazin of Merced County, east of San Francisco, one of the many jurisdictions to impose new restrictions.

Under the 1996 law, known as Proposition 215, patients need a prescription to acquire medicinal marijuana, but the law gave little guidance as to how people were to acquire it. That gave rise to some patients with marijuana prescriptions growing their own in limited quantities, the opening of clubs to make it available and growers going large scale to keep those outlets supplied.

In turn, that led to the kind of worries that have bubbled up in Arcata, home of Humboldt State University, where town elders say roughly one in five homes are “indoor grows,” with rooms or even entire structures converted into marijuana greenhouses.

That shift in cultivation, caused in part by record-breaking seizures by drug agents of plants grown outdoors, has been blamed for a housing shortage for Humboldt students, residential fires and the powerful — and distracting — smell of the plant in some neighborhoods during harvest.

“I naïvely thought it was a skunk,” said Jeff Knapp, an Arcata resident who has a neighbor who is a grower.

In May, Arcata declared a moratorium on clubs to allow the city council time to address the problem. Los Angeles, which has more than 180 registered marijuana clubs, the most of any city, also declared a moratorium last year.

“There were a handful initially and then all the sudden, they started to sprout up all over,” said Dennis Zine, a member of the Los Angeles City Council. “We had marijuana facilities next to high schools and there were high school kids going over there and there was a lot of abuse taking place.”

But while even advocates of medical marijuana say they recognize that the system has problems, they question the bans. “I think there’s no doubt there’s been abuse, but there’s probably no system created by human beings that hasn’t been abused,” said Bruce Mirken, the director of communications for the Marijuana Policy Project in Washington, which promotes the drug’s legalization. “But the answer to that is not the wholesale throwing out the baby with the bath water.”

All told, about 80 California cities have adopted moratoriums with more than 60 others banning the clubs outright, according to Americans for Safe Access, which advocates for medical marijuana research and treatment. Eleven counties have adopted some sort of ban or moratorium.

Such laws have led to a kind of Prohibition patchwork of “wet” and “dry” areas. In Visalia, a city of 120,000 in the state’s Central Valley, the local club was denied a permit on Main Street, so instead set up shop on a lonely section of country highway. Other clubs have retreated into people’s homes.

Kris Hermes, legal campaign director for Americans for Safe Access, said that despite the bans, 8 counties and about 30 cities had also established regulations meant to legitimize the clubs.

Mr. Zine said the moratorium in Los Angeles would allow city officials time to develop regulations and zoning, something advocates for medical marijuana say they welcome.

“There’s tons of human behavior that you and I might not want to have anything to do with,” said Allen St. Pierre, the executive director of the National Organization for the Reform of Marijuana

Laws, or Norml, a nonprofit advocacy group in Washington. "But if they are legal, there ought to be a legal means to purchase the commodity and do business."

Such regulations were passed in 2005 in San Francisco, which now has a 10-page application for a club permit.

Kevin Reed, owner of the Green Cross, was the first owner to get a permit in January. But he said some of the city's other two dozen clubs were struggling to get their paperwork. "It's taking substantially more time to move through the permit process than was envisioned," Mr. Reed said in an e-mail message. The city's board just extended the permit deadline until next year.

New regulations are also in the offing for local and state law enforcement, which has often found itself confused by the overlapping — and sometimes contradictory — federal, state and local laws. Under a state law that took effect in 2004, counties can set their own limits on the amount of medical marijuana; in Mendocino, for example, growers are allowed 25 mature plants, while most counties allow six.

Jerry Brown, the state attorney general, plans to release guidelines this summer to clarify the differences.

"These dispensaries aren't supposed to be big profit centers," Mr. Brown said. "This is supposed to be for individual use."

The 2004 law also recognized the right of patients and caregivers to cultivate marijuana as a group, something law enforcement officials say has been abused.

Bob Nishiyama, the major crimes task force commander in Mendocino County, said there were places with 500 plants and 20 Proposition 215 letters tacked to a fence. "And technically, that's legal because people can have 25 plants," he said.

By any measure, medical marijuana in California is a moneymaker. In March, a group of California club owners testified before the state Board of Equalization that their industry had pumped some \$100 million in sales tax into state coffers, representing more than \$1 billion in sales.

Like many law enforcement officials, Mr. Nishiyama says he does not have a problem with medical marijuana, just with those who are exploiting it.

"If you're growing six plants and smoking it in your own house, I could care less," he said.

Most states that have passed subsequent medical marijuana laws have been more precise than California voters were in 1996. New Mexico, for example, allows only patients with seven medical conditions, including cancer, AIDS and epilepsy, to receive medical marijuana.



“California is an aberration, because it does not designate specific disease types, it does not designate weights or plant source, and it has what might be the most fungible or elastic definition of care-giver,” said Mr. St. Pierre, of Norml. Every proposition after Proposition 215 has been “narrower and narrower and more restrictive in scope,” he said.

Also complicating law enforcement’s job is that marijuana is still illegal in the eyes of the federal government, which has been increasingly aggressive about prosecuting club owners they feel have crossed the line into commercial drug dealing.

Among those recently convicted in California include a doctor and his wife from Cool who were given five years each in March for conspiracy to sell marijuana and growing more than 100 plants; a club owner from Bakersfield who pleaded guilty in March to possession of 40 pounds of marijuana with intent to distribute; and Luke Scarmazzo, a 28-year-old club owner and aspiring rapper who faces 20 years to life in prison after a conviction last month for running a multimillion-dollar club in Modesto that the government called a criminal enterprise.

And last year, the Drug Enforcement Administration threatened to seize buildings from landlords who rented space to clubs, resulting in some closings across the state.

For all the federal and local opposition, marijuana as medicine has become an accepted part of life in many communities in California. Advocates say the drug helps patients with everything from the wasting effects of chemotherapy and AIDS to treatment of anxiety and headaches.

But it is not cheap. At Med X, the raided Los Angeles club, the most expensive marijuana, called Blueberry Kush, was priced at \$490 an ounce. That economic impact includes numerous ancillary businesses that serve the cannabis culture, including thriving horticulture shops, and Oakland’s Oaksterdam University, a trade school where students can sign up for semester-long courses on marijuana cultivation.

For some, growing has become a second career. In Arcata, a 29-year-old man, who asked that his name not to be used for fear of arrest, said that he earned about \$25,000 every three months from selling marijuana grown in a back room to club owners from Southern California.

But others in Arcata are less welcoming. Kevin L. Hoover, the editor of the local newspaper, The Eye, has made a practice of confronting people he believes are growing marijuana. Their houses are easy to spot, he said — covered windows, tall fences, cars coming and going late at night. “Sometimes the whine of fans,” he said.

Those fans, of course, are eating electrical power, something that also irks many.

“We’re all trying to reduce our carbon footprint, but in these places the meters are spinning off the

wall,” said Mayor Mark Wheatley of Arcata. “When do you say, enough is enough?”

*Jigar Mehta and Carolyn Marshall contributed reporting.*

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**TESTIMONY OF ROY E. MCKINNEY, MDEA DIRECTOR  
DEPARTMENT OF PUBLIC SAFETY  
BUREAU OF DRUG ENFORCEMENT**

**(Opposing) L.D. 975**

**"AN ACT TO ESTABLISH THE MAINE MEDICAL MARIJUANA ACT"**

**Initiated Bill**

**BEFORE THE JOINT STANDING COMMITTEE ON HEALTH AND HUMAN  
SERVICES**

**HEARING DATE: April 13, 2009 1:00PM, Room 209, Cross Office Building**

Good afternoon Senator Brannigan, Representative Perry, and members of the joint standing Committee on Health and Human Services. Thank you for the opportunity to come before you. I am Roy McKinney, Director of the Maine Drug Enforcement Agency, and am here before you representing the Department of Public Safety. The Department joins the Department of Health & Human Services opposing L.D. 975, "An Act To Establish the Maine Medical Marijuana Act."

This legislation raises concern for the public health, safety and welfare of Maine citizens. The issue of access has always been the major obstacle for the proponents and will remain so until the Supreme Court rules differently or there is a change in the law by Congress. This is the area that is confusing to most - if state law recognizes this plant as a prescription drug and the doctor recommends it, then why can't the individual go to their pharmacy and get their prescription filled. We know the answer and sanctioning store-front businesses to sell this drug does not change it.

This legislation will allow store-front marijuana businesses to possess, cultivate and sell marijuana for medical purposes under the appearance that it is regulated similar to the controlled substances that are dispensed at a pharmacy. Nothing could be further from the truth. California has had the most experience with such store-front marijuana businesses and is experiencing the growing scandal that dispensaries of marijuana for medical purposes have brought. Numerous California communities that have permitted the establishment of dispensaries have found that such dispensaries have resulted in negative and harmful secondary effects, including significant

increases in traffic, crime, and noise. Officials are concerned about reports that dispensaries are associated with crimes like burglary, robbery, loitering by drug dealers and people under the influence of controlled substances. Furthermore, investigations are exposing some of these dispensaries as massive drug-trafficking operations. The owner of one nonprofit "clinic" was writing checks to himself for about \$10,000 a week and had deposited \$2.3 million in a bank account over just an eight-month period. Understandably, the citizens of most municipalities in California do not want marijuana dispensaries in their neighborhoods, towns and cities due to the inevitable negative consequences and are banning them. Additionally, California counties and cities that have authorized such businesses are re-thinking that approach as they arguably have liability exposure for aiding and abetting those that are violating federal law.

Information from the California Police Chiefs Association has identified numerous enforcement issues associated with these dispensaries. The following negative consequences that have been experienced at dispensaries of marijuana are:

- Street dealers selling at lower prices to entice patients away from dispensaries
- Marijuana DUI by people who have obtained the drug from the dispensary
- Neighboring businesses have experienced a loss of customers
- Increase in unreported crime to avoid negative publicity to the dispensary
- Problem of patients selling to non-patients (similar to providing alcohol to a juvenile waiting outside a store)
- Documented cases of robbery outside marijuana dispensaries
- Complaints from patients that other illegal drugs are being sold from the dispensary
- Marijuana dispensaries perpetuate a sub-culture that openly supports behavior consistent with criminal activity and publishes instructional material on the web.
- Management from an established dispensary told police that they cannot keep the criminal element out

A Riverside County (CA) District Attorney's Office white paper<sup>1</sup> states that "medical marijuana store-front businesses have allowed criminals to flourish in California," and concludes: "Furthermore, store-front medical marijuana businesses are prey for criminals and create easily identifiable victims. The people growing the marijuana are looking to and employing illegal means to protect their valuable cash crops. Many distributing marijuana are hardened. The others distributing marijuana to the businesses are perfect targets for thieves and

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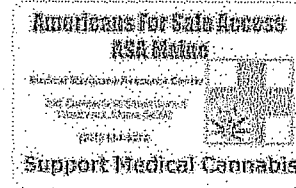
<sup>1</sup> *Medical Marijuana: History and Current Complications*  
([http://www.californiapolicechiefs.org/nav\\_files/research/pdfs\\_ords/09-06marijuana.pdf](http://www.californiapolicechiefs.org/nav_files/research/pdfs_ords/09-06marijuana.pdf))

robbers. They are being assaulted, robbed and murdered. Those buying and using medical marijuana are also being victimized.”

A June 2008 New York Times article exposes the chaos that has become of the medical marijuana movement in California stating that “...community push-back is increasingly common across the state, even in the most liberal communities. In recent years, dozens of local governments have banned or restricted cannabis clubs, more formally known as dispensaries, that provide medical marijuana, in the face of public safety issues involved in its sale and cultivation, including crime and environmental damage.” I’ve provided the Committee with a copy of this article.

In closing, the CBS news program *60 Minutes* did a segment examining this dispensary issue. I encourage Committee members to view this which is readily accessible through You Tube by entering “60 Minutes Medical Marijuana” in the search field. What is most striking is that medical marijuana activists are now raising the alarm that matters have gotten out of hand with the creation of a whole new industry with pot dealers in store fronts as a result of well-meaning intentions to protect patients from criminal prosecution.

The dispensing of medications that are designated as controlled substances is a highly-regulated industry from the point of manufacture, transportation, dispensing and disposal. This legislation does not do that. Thank you for the opportunity to appear before you today and offer the Department’s perspective. I am pleased to answer any questions that you may have, either at this hearing or subsequent work sessions.



**LD 975 Health and Human services Committee**  
personal testimony

April 13, 2009

**Charles Wynott**  
Maine Medical Marijuana Patient

Good afternoon Senator Brannigan and members of the committee. It has now been ten years since the citizens passed the Maine medical Marijuana Act by a 61% of the vote. I told you than I would probably be back here to testify for safe access to the marijuana that we need to help us get through the day. I was born in Maine and I have lived here most of my 45yrs. Since my diagnosis of HIV/AIDS in 1987 (yes 20yrs), I have been a patient and vocal advocate of the Patient Access for Medical Marijuana in Maine throughout the long process. I will continue to do whatever I can to help my friends and Maine citizens get their medicine in a safe manner.

There are several reasons why I have survived this long with AIDS Marijuana has been a very important part of my doctor recommended therapy. It allows me to keep down my several pills I take daily. I have serious issues with vomiting and nausea which has caused wasting. I am only 145lbs. So maintaining my weight is crucial. yes, I have a prescription to marinol, the legal pill form you hear so much about. Marinol does not give immediate relief to the nausea and vomiting as marijuana does.

I know I will die from this but at the moment it a quality of life issue. I do not have the knowledge or finances to maintain a grow. Patients need help to access their medicine.

a legal regulated distribution program in the current Maine Medical Marijuana Law. This committee has the power to make this happen for the patients of Maine. However I am confident that this will be the year that the citizens once again let their voices be heard loud and clear to have compassion and allow safe access to medical marijuana in Maine!

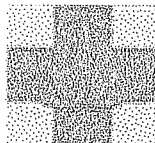
Thank you for your time. Please vote to pass this improvement to our current bill.

Charles Wynott

Maine Medical Marijuana Resource Center  
Americans For Safe Access – ASA Maine



Cannabis  
Consumers  
Campaign



Safe Access  
Now



MEDICAL MARIJUANA  
INFORMATION  
RESOURCE CENTRE  
INFORMATION • SUPPORT • GUIDANCE





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Deputy Executive Vice President

## TESTIMONY OF THE MAINE MEDICAL ASSOCIATION

### NEITHER FOR NOR AGAINST

### L.D. 975, AN ACT TO ESTABLISH THE MAINE MEDICAL MARIJUANA ACT

### AND

### L.D. 1070, RESOLVE, DIRECTING THE UNIVERSITY OF MAINE AT ORONO TO CONDUCT A PILOT PROJECT REGARDING THE BENEFITS OF MEDICAL MARIJUANA

Joint Standing Committee on Health & Human Services  
Room 209, Cross State Office Building  
Monday, April 13, 2009, 1:00 p.m.

Good afternoon Senator Brannigan, Representative Perry, and Members of the Joint Standing Committee on Health & Human Services. I am Andrew MacLean, Deputy EVP of the Maine Medical Association (MMA) and I am speaking "neither for nor against" L.D. 975, *An Act to Establish the Maine Medical Marijuana Act* and L.D. 1070, *Resolve, Directing the University of Maine at Orono to Conduct a Pilot Project Regarding the Benefits of Medical Marijuana*.

The MMA is a professional association representing more than 3000 physicians, residents, and medical students in Maine whose mission is to support Maine physicians, advance the quality of medicine in Maine, and promote the health of all Maine citizens.

The MMA opposed the original "medical marijuana" bill (I.B. 1999, Chapter 1) before the 119<sup>th</sup> Maine Legislature and in the referendum that followed. The association's rationale for the opposition was based upon the medical and legal risks associated with marijuana use. Most physicians believe that suitable FDA-approved drugs are available for each of the qualifying conditions in current law and for the "debilitating medical conditions" proposed in L.D. 975. While some physicians acknowledge that patients may receive relief of symptoms from smoked marijuana sooner because the active ingredient enters the bloodstream sooner than FDA-approved alternatives, most believe that the health risks of smoking outweigh the potential benefit.

Although the MMA opposed the referendum, we did participate in good faith in a working group assembled by the Office of the Attorney General to implement the new law. With the input of this working group, I drafted the attached *Physician Certification of Eligibility for Medical Use of Marijuana/Consent to Treatment with Marijuana for Medical Purposes* form (copy attached) to assist those physicians who are comfortable working with medical marijuana patients. This document describes the principal medical and legal risks and I would be happy to discuss these further with you at the work session, if you wish. Since the medical marijuana law passed, the MMA receives occasional inquiries about it from physicians and patients, and Gordon and I have provided neutral advice. I must point out that we have not heard concerns from physicians about any misuse of this law.



The MMA takes no position on the registry, dispensary, or limitation of amount aspects of L.D. 975. The MMA does draw your attention to the apparent expansion of the scope of qualifying conditions in the bill's definition of "debilitating medical condition" in the proposed 22 M.R.S.A. §2422(2) in Section 5 of the bill. I expect that Maine physicians have varying opinions on the scope of qualifying conditions. While a majority still may be conservative about the medical use of marijuana, others do find benefits for patients. In that regard, I have set out below excerpts from an email I received this morning from my neighbor, John Woytowicz, M.D., a physician with the Family Medicine Institute and MaineGeneral Medical Center who has ten years of experience working with medical marijuana patients in Maine.

I am familiar with much of the literature on the medical use of marijuana except for nail-patella syndrome. I have not seen literature on this topic. The other indications have in many cases a good body of literature that is of good quality. The literature on Alzheimer's is more suggestive than substantial for its role in slowing inflammation. On the other hand, it is reasonable to think that calming agitation in Alzheimer's with marijuana would be an effective approach. The expansion of the law to include Hep C, AML, and Crohn's disease make a lot of sense as there is a large body of literature to support these indications as many of the same symptoms are being treated in the previously designated indications.

[In ten years of working with medical marijuana patients,] I have seen great benefit to patients who use it. Often it is more effective and it causes fewer side effects compared with pharmaceuticals, and at lower doses than available in prescription marinol. Marinol which has a limited profile of use is usually not tolerated well. Individuals are often groggy and experience cloudy thinking due to the dose/concentration of THC. Usually when I have testified at the State House or in court, I make it clear that marijuana is only part of the treatment plan that I develop with each patient. I always indicate that other forms of treatment, new treatments and re-exploring previous modalities is part of the plan along with the medical use of marijuana.

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One benefit I hope will arise from this bill or a positive referendum vote is to identify which physicians are willing to work with the public. I receive calls from around the state but it is often impractical to help everyone who cannot come to my office at least twice a year. I do not have a list of physicians to suggest to patients. Ideally, I prefer to become the primary care giver if they are local. I do not require this but I do make the suggestion. Otherwise, I wish to see each person at least twice yearly. This has worked except for two experiences in ten years.

The MMA is comfortable with the pilot project proposed in L.D. 1070 as it is consistent with standing AMA policy on medical marijuana in favor of further research. For your information, I have attached the following policy statements:

- AMA House of Delegates Resolution 95.952, *Medical Marijuana*;
- AMA House of Delegates Resolution 95.995, *Health Aspects of Marijuana*; and
- AMA House of Delegates Resolution 95.997, *Marijuana*.

Thank you for considering the MMA's views on this matter and I would be happy to respond to any questions you may have.

**PHYSICIAN CERTIFICATION OF ELIGIBILITY FOR MEDICAL USE OF MARIJUANA**  
(Pursuant to 22 M.R.S.A. §2383-B, *et seq.*)

Patient Name: \_\_\_\_\_

Patient less than 18 years of age – patient's parent or legal guardian's name: \_\_\_\_\_

I am a physician licensed in the State of Maine. The above-named patient is under my continuing care for a terminal illness or debilitating condition as defined in Maine's Medical Marijuana Act of 1998, 22 M.R.S.A. §2383-B, sub-§5 (the "Act"). According to the Act, the use of marijuana for medical purposes is now permissible for the treatment of: nausea, vomiting, and wasting syndrome from cancer chemotherapy or AIDS; persistent muscle spasms from multiple sclerosis or other spasticity disorders; heightened intra-ocular pressure as a result of glaucoma; and epilepsy or other seizure disorders. The above-named patient has disclosed his/her current or past medical use of marijuana, or his/her intention to use marijuana for medical purposes in the future.

I have advised the above-named patient and, if the patient is less than 18 years of age, the patient's parent or legal guardian, about the potential risks and benefits of the medical use of marijuana. I have provided the above-named patient with my professional opinion concerning the possible balance of risks and benefits in this person's particular case. I have assessed the above-named patient's medical history and medical condition and have advised this person that s/he might benefit from the medical use of marijuana.

I have cautioned this patient not to drive or engage in hazardous activities (such as operating machinery) while using marijuana for medical purposes.

This authorization expires one year from today's date \_\_\_\_\_  
(Today's Date)

Signature of Physician: \_\_\_\_\_

Printed Name of Physician: \_\_\_\_\_

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**CONSENT TO TREATMENT WITH MARIJUANA FOR MEDICAL PURPOSES**

I, \_\_\_\_\_ am requesting the physician to treat my qualifying condition  
(Patient/Minor Patient's Parent or Legal Guardian)

under Maine's Medical Marijuana Act of 1998, as I use marijuana for medical purposes. In requesting the physician to continue treating me as I use marijuana for medical purposes, I assume full responsibility for any and all risks of this action related to my/patient's current medical condition.

I understand that marijuana is not approved by the Federal Food and Drug Administration for medicinal purposes and may contain unknown quantities of active ingredients and may potentially contain contaminants and/or impurities. I understand that my/patient's physician may not be knowledgeable of all the associated risks involved in the use of a non-FDA approved substance such as marijuana. I acknowledge that there is controversy in the medical/scientific literature available regarding the usage of marijuana for medical purposes and that more research is currently being conducted.

I understand that although the Maine legislation has approved the limited use of marijuana for medical purposes, its use is not approved under federal law, and that the current and future enforcement activities of federal law enforcement officials is uncertain.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Patient/Minor Patient's Parent or Legal Guardian

NOTE: If the patient is less than 18 years of age, both the name of the patient and the patient's parent or legal guardian should be printed above and both the minor patient and his/her parent or legal guardian should sign the form.

## **H-95.952 Medical Marijuana**

- (1) Our AMA calls for further adequate and well-controlled studies of marijuana and related cannabinoids in patients who have serious conditions for which preclinical, anecdotal, or controlled evidence suggests possible efficacy and the application of such results to the understanding and treatment of disease.
- (2) Our AMA recommends that marijuana be retained in Schedule I of the Controlled Substances Act pending the outcome of such studies.
- (3) Our AMA urges the National Institutes of Health (NIH) to implement administrative procedures to facilitate grant applications and the conduct of well-designed clinical research into the medical utility of marijuana. This effort should include: a) disseminating specific information for researchers on the development of safeguards for marijuana clinical research protocols and the development of a model informed consent on marijuana for institutional review board evaluation; b) sufficient funding to support such clinical research and access for qualified investigators to adequate supplies of marijuana for clinical research purposes; c) confirming that marijuana of various and consistent strengths and/or placebo will be supplied by the National Institute on Drug Abuse to investigators registered with the Drug Enforcement Agency who are conducting bona fide clinical research studies that receive Food and Drug Administration approval, regardless of whether or not the NIH is the primary source of grant support.
- (4) Our AMA believes that the NIH should use its resources and influence to support the development of a smoke-free inhaled delivery system for marijuana or delta-9-tetrahydrocannabinol (THC) to reduce the health hazards associated with the combustion and inhalation of marijuana.
- (5) Our AMA believes that effective patient care requires the free and unfettered exchange of information on treatment alternatives and that discussion of these alternatives between physicians and patients should not subject either party to criminal sanctions. (CSA Rep. 10, I-97; Modified: CSA Rep. 6, A-01)

## **H-95.995 Health Aspects of Marijuana**

Our AMA (1) discourages marijuana use, especially by persons vulnerable to the drug's effects and in high-risk situations; (2) supports the determination of the consequences of long-term marijuana use through concentrated research; and (3) supports the modification of state law to reduce the severity of penalties for possession of marijuana. (CSA Rep. D, I-77; Reaffirmed: CLRPD Rep. C, A-89; Reaffirmed: Sunset Report, A-00)

## **H-95.997 Marijuana**

Our AMA: (1) recommends personal possession of insignificant amounts of that substance be considered a misdemeanor with commensurate penalties applied; (2) believes a plea of marijuana intoxication not be a defense in any criminal proceedings; and (3) urges that educational efforts be expanded to all segments of the population. (BOT Rep. J, A-72; Reaffirmed: CLRPD Rep. C, A-89; Reaffirmed: Sunset Report, A-00)

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# LD 975, MEDICAL MARIJUANA INITIATED BILL AND LD 1070, MEDICAL MARIJUANA PILOT PROJECT

| LD 975                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Notes                                                               |
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| <p><b>Sec. 1. 15 MRSA §5821-A</b>, as enacted by IB 1999, c. 1, §3, is amended to read:</p> <p><b>§ 5821-A. Property not subject to forfeiture based on medical use of marijuana</b></p> <p>Beginning January 1, 1999, property is not subject to forfeiture under this chapter if the activity that subjects the person's property to forfeiture is possession of medical use of marijuana and the person meets the requirements for medical use of marijuana under Title 22, section 2383-B, subsection 5 chapter 558-C.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <p>Corrects cross-reference to reflect this law once it passes.</p> |
| <p><b>Sec. 2. 17-A MRSA §1111-A, sub-§1</b>, as amended by PL 2001, c. 383, §135 and affected by §156, is further amended to read:</p> <p>1. As used in this section the term "drug paraphernalia" means all equipment, products and materials of any kind that are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a scheduled drug in violation of this chapter or Title 22, section 2383, except that this section does not apply to a person who is authorized to possess marijuana for medical use pursuant to Title 22, section 2383-B, subsection 5 chapter 558-C, to the extent the drug paraphernalia is required for that person's medical use of marijuana. It includes, but is not limited to:</p> <ul style="list-style-type: none"> <li>A. Kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a scheduled drug or from which a scheduled drug can be derived;</li> <li>B. Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing scheduled drugs;</li> <li>C. Isomerization devices used or intended for use in increasing the potency of any species of plant that is a scheduled drug;</li> <li>D. Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of scheduled drugs;</li> <li>E. Scales and balances used or intended for use in weighing or measuring scheduled drugs;</li> <li>F. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use in cutting scheduled drugs;</li> <li>G. Separation gins and sifters, used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;</li> <li>H. Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding scheduled drugs;</li> <li>I. Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of scheduled drugs;</li> <li>J. Containers and other objects used or intended for use in storing or concealing scheduled drugs; and</li> <li>K. Objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as: <ul style="list-style-type: none"> <li>(1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;</li> <li>(2) Water pipes;</li> <li>(3) Carburetion tubes and devices;</li> <li>(4) Smoking and carburetion masks;</li> <li>(5) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;</li> <li>(6) Miniature cocaine spoons and cocaine vials;</li> <li>(7) Chamber pipes;</li> </ul> </li> </ul> | <p>Corrects cross-reference.</p>                                    |

| Notes                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                           |
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| (8) Carburetor pipes;<br>(9) Electric pipes;<br>(10) Air-driven pipes;<br>(11) Chillums;<br>(12) Bongs; or<br>(13) Ice pipes or chillers.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                           |
| <p><b>Sec. 3. 22 MRSA §2383, sub-§1</b>, as amended by PL 2005, c. 386, Pt. DD, §3, is further amended to read:</p> <p><b>1. Marijuana.</b> Except as provided in section 2383-B, subsection 5 chapter 558-C, a person may not possess marijuana.</p> <p>A. A person who possesses a usable amount of marijuana commits a civil violation for which a fine of not less than \$350 and not more than \$600 must be adjudged, none of which may be suspended.</p> <p>B. A person who possesses a usable amount of marijuana after having previously violated this subsection within a 6-year period commits a civil violation for which a fine of \$550 must be adjudged, none of which may be suspended.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <p>Corrects cross-reference.</p>                                                                                                                                                                                                                                          |
| <p><b>Sec. 4. 22 MRSA §2383-B, sub-§5</b>, as amended by PL 2001, c. 580, §3, is repealed.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <p>Repeals current law on medical use of marijuana.</p>                                                                                                                                                                                                                   |
| <p><b>Sec. 5. 22 MRSA c. 558-C</b> is enacted to read:</p> <p style="text-align: center;"><b><u>CHAPTER 558-C</u></b></p> <p style="text-align: center;"><b><u>Maine Medical Marijuana Act</u></b></p> <p><b>§ 2421. Short title</b></p> <p><u>This chapter may be known and cited as "the Maine Medical Marijuana Act."</u></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p>Enacts new law. Establishes a system within DHHS to issue registration cards to qualifying patients, primary caregivers and officers, board members, employees and agents of nonprofit dispensaries. Provides legal protections for persons acting within the law.</p> |
| <p><b>§ 2422. Definitions</b></p> <p><u>As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.</u></p> <p><b>1. Cardholder.</b> "Cardholder" means a qualifying patient, a primary caregiver or a principal officer, board member, employee or agent of a nonprofit dispensary who has been issued and possesses a valid registry identification card.</p> <p><b>2. Debilitating medical condition.</b> "Debilitating medical condition" means:</p> <p><u>A. Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, nail-patella syndrome or the treatment of these conditions;</u></p> <p><u>B. A chronic or debilitating disease or medical condition or its treatment that produces intractable pain, which is pain that has not responded to ordinary medical or surgical measures for more than 6 months;</u></p> <p><u>C. A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe nausea; seizures, including but not limited to those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis; or</u></p> <p><u>D. Any other medical condition or its treatment approved by the department as provided for in section 2424, subsection 2.</u></p> | <p>Provides definitions.</p> <p>Defines cardholder.</p> <p>Defines debilitating condition.</p>                                                                                                                                                                            |



| LD 975                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Notes                                           |
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| <p><b>3. Enclosed, locked facility.</b> <u>"Enclosed, locked facility" means a closet, room, greenhouse or other enclosed area equipped with locks or other security devices that permit access only by a cardholder.</u></p>                                                                                                                                                                                                                                                                                              | <p>Defines enclosed, locked facility.</p>       |
| <p><b>4. Felony drug offense.</b> <u>"Felony drug offense" means a violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted. It does not include:</u></p> <p>A. <u>An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years earlier; or</u></p> <p>B. <u>An offense that consisted of conduct that would have been permitted under this chapter.</u></p> | <p>Defines felony drug offense.</p>             |
| <p><b>5. Medical use.</b> <u>"Medical use" means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.</u></p>                                                                                                                       | <p>Defines medical use.</p>                     |
| <p><b>6. Nonprofit dispensary.</b> <u>"Nonprofit dispensary" means a not-for-profit entity registered under section 2428 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to cardholders. A nonprofit dispensary is a primary caregiver.</u></p>                                                                                                                                                  | <p>Defines nonprofit dispensary.</p>            |
| <p><b>7. Physician.</b> <u>"Physician" means a person licensed as an osteopathic physician by the Board of Osteopathic Licensure pursuant to Title 32, chapter 36 or a person licensed as a physician or surgeon by the Board of Licensure in Medicine pursuant to Title 32, chapter 48.</u></p>                                                                                                                                                                                                                           | <p>Defines physician.</p>                       |
| <p><b>8. Primary caregiver.</b> <u>"Primary caregiver" means a person who is at least 21 years of age who has agreed to assist with a qualifying patient's medical use of marijuana and who has never been convicted of a felony drug offense. Unless the primary caregiver is a nonprofit dispensary, the primary caregiver may assist no more than 5 qualifying patients with their medical use of marijuana.</u></p>                                                                                                    | <p>Defines primary caregiver.</p>               |
| <p><b>9. Qualifying patient.</b> <u>"Qualifying patient" means a person who has been diagnosed by a physician as having a debilitating medical condition.</u></p>                                                                                                                                                                                                                                                                                                                                                          | <p>Defines qualifying patient.</p>              |
| <p><b>10. Registered nonprofit dispensary.</b> <u>"Registered nonprofit dispensary" means a nonprofit dispensary that is registered by the department pursuant to section 2428, subsection 2, paragraph A.</u></p>                                                                                                                                                                                                                                                                                                         | <p>Defines registered nonprofit dispensary.</p> |
| <p><b>11. Registered primary caregiver.</b> <u>"Registered primary caregiver" means a primary caregiver who is registered by the department pursuant to section 2425, subsection 4.</u></p>                                                                                                                                                                                                                                                                                                                                | <p>Defines registered primary caregiver.</p>    |
| <p><b>12. Registered qualifying patient.</b> <u>"Registered qualifying patient" means a qualifying patient who is registered by the department pursuant to section 2425, subsection 1.</u></p>                                                                                                                                                                                                                                                                                                                             | <p>Defines registered qualifying patient.</p>   |
| <p><b>13. Registry identification card.</b> <u>"Registry identification card" means a document issued by the department that identifies a person as a registered qualifying patient, registered primary caregiver or a principal officer, board member, employee or agent of a nonprofit dispensary.</u></p>                                                                                                                                                                                                               | <p>Defines registry identification card.</p>    |
| <p><b>14. Usable marijuana.</b> <u>"Usable marijuana" means the dried leaves and flowers of the marijuana plant, and any mixture or preparation of those dried leaves and flowers, but does not include the seeds, stalks and roots of the plant and does not include the weight of other ingredients in marijuana prepared for consumption as food.</u></p>                                                                                                                                                               | <p>Defines usable marijuana.</p>                |

| LD 975                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Notes                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| <p><b>15. Visiting qualifying patient.</b> "Visiting qualifying patient" means a patient with a debilitating medical condition who is not a resident of this State or who has been a resident of this State less than 30 days.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <p>Defines visiting qualifying patient.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p><b>16. Written certification.</b> "Written certification" means a document signed by a physician and stating that in the physician's professional opinion a patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. A written certification may be made only in the course of a bona fide physician-patient relationship after the physician has completed a full assessment of the qualifying patient's medical history. The written certification must specify the qualifying patient's debilitating medical condition.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <p>Defines written certification.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <p><b>§ 2423. Protections for the medical use of marijuana</b></p> <p><b>1. Qualifying patient.</b> A qualifying patient who has been issued and possesses a registry identification card may not be subject to arrest, prosecution or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the medical use of marijuana in accordance with this chapter as long as the qualifying patient possesses an amount of marijuana that:</p> <p>A. Is not more than 2 1/2 ounces of usable marijuana; and</p> <p>B. If the qualifying patient has not specified that a primary caregiver is allowed under state law to cultivate marijuana for the qualifying patient, does not exceed 6 marijuana plants, which must be kept in an enclosed, locked facility unless they are being transported because the qualifying patient is moving or they are being transported to the qualifying patient's property.</p> <p><b>2. Primary caregiver.</b> A primary caregiver, other than a nonprofit dispensary, who has been issued and possesses a registry identification card may not be subject to arrest, prosecution or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for assisting a qualifying patient to whom the primary caregiver is connected through the department's registration process with the medical use of marijuana in accordance with this chapter as long as the primary caregiver possesses an amount of marijuana that:</p> <p>A. Is not more than 2 1/2 ounces of usable marijuana for each qualifying patient to whom the primary caregiver is connected through the department's registration process; and</p> <p>B. For each qualifying patient who has specified that the primary caregiver is allowed under state law to cultivate marijuana for the qualifying patient, does not exceed 6 marijuana plants, which must be kept in an enclosed, locked facility unless they are being transported because the primary caregiver is moving.</p> <p><b>3. Incidental amount of marijuana.</b> Any incidental amount of seeds, stalks and unusable roots must be allowed and may not be included in the amounts specified in this section.</p> <p><b>4. Presumption.</b> There is a presumption that a qualifying patient or primary caregiver is engaged in the medical use of marijuana in accordance with this chapter if the qualifying patient or primary caregiver:</p> <p>A. Is in possession of a registry identification card; and</p> <p>B. Is in possession of an amount of marijuana that does not exceed the amount allowed under this chapter.</p> | <p>Protects a qualifying patient who has been issued a registration card from arrest, prosecution or penalty, including action by licensing boards, for medical use of marijuana provided the patient possesses not more than 2 ½ ounces of marijuana plus 6 plants if the patient has not designated a primary caregiver to cultivate marijuana for the patient. Requires the plants to be kept locked and enclosed.</p> <p>Protects a primary caregiver who has been issued an identification card from arrest, prosecution or penalty, including action by licensing boards, for assisting a qualifying patient with whom the caregiver is connected through the registration process for possession of marijuana, not more than 2 ½ ounces and 6 plants per qualifying patient. Requires the plants to be kept locked and enclosed.</p> <p>Excludes from the amount seeds, stalks and unusable roots.</p> <p>Provides presumption of medical use of marijuana if qualifying patient and primary caregiver have registration ID cards and no more than the protected amount of marijuana.</p> |

| LD 975                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Notes                                                                                                                                                                                                                                                          |
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| <p>The presumption may be rebutted by evidence that conduct related to marijuana was not for the purpose of treating or alleviating the qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition in accordance with this chapter.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <p>Allows rebuttal for inconsistent conduct.</p>                                                                                                                                                                                                               |
| <p><b>5. Cardholder not subject to arrest.</b> A cardholder may not be subject to arrest, prosecution or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for giving an amount of marijuana the person is allowed to possess under subsection 1 or 2 to a cardholder for the registered qualifying patient's medical use when nothing of value is transferred in return or for offering to do the same.</p>                                                                                                                                                                                                                                                                                                                                                                                                                           | <p>Protects cardholder (primary caregiver or person at nonprofit dispensary from arrest, prosecution or penalty or licensing action for providing marijuana within requirements of chapter to qualifying patient when nothing of value is given in return.</p> |
| <p><b>6. School, employer or landlord may not discriminate.</b> A school, employer or landlord may not refuse to enroll or employ or lease to or otherwise penalize a person solely for that person's status as a registered qualifying patient or a registered primary caregiver unless failing to do so would put the school, employer or landlord in violation of federal law or cause it to lose a federal contract or funding.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <p>Prohibits school, employer or landlord from enrolling, employing or leasing to a person because of their status as a registered qualifying patient or primary caregiver unless required by federal law, contract or funding requirement.</p>                |
| <p><b>7. Person may not be denied custody or visitation of minor.</b> A person may not be denied custody or visitation of a minor for acting in accordance with this chapter unless the person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <p>Prohibits denial of custody or visitation of a minor because of conduct in accordance with chapter unless person's behavior creates an unreasonable danger.</p>                                                                                             |
| <p><b>8. Registered primary caregiver may receive compensation for costs.</b> A registered primary caregiver may receive compensation for costs associated with assisting a registered qualifying patient's medical use of marijuana as long as the registered primary caregiver is connected to the registered qualifying patient through the department's registration process. Any such compensation does not constitute the sale of controlled substances.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <p>Allows registered primary caregiver, who is by definition limited to caring for 5 patients, to be paid for costs by the registered qualifying patient. Declares the payment not a sale of a controlled substance.</p>                                       |
| <p><b>9. Physician not subject to penalty.</b> A physician may not be subject to arrest, prosecution or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by the Board of Licensure in Medicine or the Board of Osteopathic Licensure or by any other business or occupational or professional licensing board or bureau, solely for providing written certifications or for otherwise stating that, in the physician's professional opinion, a patient is likely to receive therapeutic benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition except that nothing prevents a professional licensing board from sanctioning a physician for failing to properly evaluate a patient's medical condition or otherwise violating the standard of care for evaluating medical conditions.</p> | <p>Protects a physician from action by a licensing board or arrest, prosecution or penalty for providing written certifications or stating that the patient is likely to receive therapeutic benefit from medical use of marijuana.</p>                        |
| <p><b>10. Person not subject to penalty for providing registered qualifying patient or registered primary caregiver marijuana paraphernalia.</b> A person may not be subject to arrest, prosecution or penalty in any manner or denied any right or privilege, including but</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p>Protects from arrest, prosecution, penalty or disciplinary action</p>                                                                                                                                                                                       |

| <p style="text-align: center;"><b>LD 975</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <p style="text-align: center;"><b>Notes</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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| <p>not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for providing a registered qualifying patient or a registered primary caregiver with marijuana paraphernalia for purposes of a qualifying patient's medical use of marijuana.</p> <p><b>11. Property not subject to forfeiture.</b> Any marijuana, marijuana paraphernalia, licit property or interest in licit property that is possessed, owned or used in connection with the medical use of marijuana, as allowed under this chapter, or property incidental to such use, may not be seized or forfeited.</p> <p><b>12. Person not subject to penalty for being in presence of medical use of marijuana.</b> A person may not be subject to arrest, prosecution or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, simply for being in the presence or vicinity of the medical use of marijuana as allowed under this chapter or for assisting a registered qualifying patient with using or administering marijuana.</p> <p><b>13. Effect of registry identification card issued by another jurisdiction.</b> A registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth or insular possession of the United States that allows the medical use of marijuana by a visiting qualifying patient has the same force and effect as a registry identification card issued by the department.</p> <p><b>§ 2424. Rules</b></p> <p><b>1. Rulemaking.</b> The department may adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.</p> <p><b>2. Adding debilitating medical conditions.</b> Not later than 120 days after the effective date of this chapter, the department shall adopt rules that govern the manner in which the department shall consider petitions from the public to add medical conditions or treatments to the list of debilitating medical conditions set forth in section 2422, subsection 2. In considering such petitions, the department shall include public notice of, and an opportunity to comment in a public hearing upon, such petitions. The department shall, after hearing, approve or deny such petitions within 180 days of their submission. The approval or denial of such a petition constitutes final agency action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Superior Court.</p> <p><b>3. Registry identification cards.</b> Not later than 120 days after the effective date of this chapter, the department shall adopt rules governing the manner in which it considers applications for and renewals of registry identification cards. The department's rules must establish application and renewal fees that generate revenues sufficient to offset all expenses of implementing and administering this chapter. The department may establish a sliding scale of application and renewal fees based upon a qualifying patient's family income. The department may accept donations from private sources in order to reduce the application and renewal fees.</p> | <p>providing marijuana paraphernalia for use by a qualifying patient.</p> <p>Protects property connected with medical use of marijuana in accordance with the chapter.</p> <p>Protects person from arrest, prosecution and penalty and licensing action on the basis of being in the presence or vicinity of medical use of marijuana in accordance with the chapter or for assisting a registered qualifying patient with using or administering marijuana.</p> <p>Provides for use of registry identification cards issued by other jurisdictions for visiting qualifying patients.</p> <p>Requires DHHS to adopt routine technical rules to administer the chapter.</p> <p>Rulemaking process for adding medical treatments or conditions to the list of debilitating medical conditions.</p> <p>Rulemaking process for applications and renewals of registration identification cards. With application and renewal fees, on a sliding scale, to offset all expenses of implementing and administering the chapter. Authorizes DHHS to accept outside funds.</p> |

| LD 975                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Notes                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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| <p><b><u>§ 2425. Registry identification cards</u></b></p> <p><b><u>1. Application for registry identification card; qualifications.</u></b> The department shall issue registration identification cards to qualifying patients who submit the documents and information described in this subsection, in accordance with the department's rules:</p> <p>A. <u>Written certification;</u></p> <p>B. <u>Application or renewal fee;</u></p> <p>C. <u>Name, address and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required;</u></p> <p>D. <u>Name, address and telephone number of the qualifying patient's physician;</u></p> <p>E. <u>Name, address and date of birth of each primary caregiver, if any, of the qualifying patient. A qualifying patient may designate only one primary caregiver unless the qualifying patient is under 18 years of age and requires a parent to serve as a primary caregiver or the qualifying patient designates a nonprofit dispensary to cultivate marijuana for the qualifying patient's medical use and the qualifying patient requests the assistance of a second caregiver to assist with the qualifying patient's medical use; and</u></p> <p>F. <u>If the qualifying patient designates one or 2 primary caregivers, a designation as to who will be allowed under state law to cultivate marijuana plants for the qualifying patient's medical use. Only one person may be allowed to cultivate marijuana plants for a qualifying patient.</u></p> <p><b><u>2. Issuing registry identification card to minor.</u></b> The department may not issue a registry identification card to a qualifying patient who is under 18 years of age unless:</p> <p>A. <u>The qualifying patient's physician has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and to a parent, guardian or person having legal custody of the qualifying patient; and</u></p> <p>B. <u>The parent, guardian or person having legal custody consents in writing to:</u></p> <p>(1) <u>Allow the qualifying patient's medical use of marijuana;</u></p> <p>(2) <u>Serve as one of the qualifying patient's primary caregivers; and</u></p> <p>(3) <u>Control the acquisition of the marijuana, the dosage and the frequency of the medical use of marijuana by the qualifying patient.</u></p> <p><b><u>3. Department approval or denial.</u></b> The department shall verify the information contained in an application or renewal submitted pursuant to this section and shall approve or deny an application or renewal within 30 days of receiving it. The department may deny an application or renewal only if the applicant did not provide the information required pursuant to this section or the department determines that the information provided was falsified. Rejection of an application or renewal is considered a final agency action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Superior Court.</p> <p><b><u>4. Primary caregiver registry identification card.</u></b> The department shall issue a registry identification card to each primary caregiver, if any, who is named in a qualifying patient's approved application pursuant to subsection 1, paragraph F. Only one person may cultivate marijuana for the qualifying patient's medical use, who is determined based solely on the qualifying patient's preference. That person may either be the qualifying patient or one of the 2 primary caregivers.</p> <p><b><u>5. Registry identification card issuance.</u></b> The department shall issue registry identification cards to qualifying patients and to primary caregivers within 5 days of approving an application or renewal under this section. Registry identification cards expire one year after the date of</p> | <p>Requires DHHS to issue registration identification cards to qualifying patients who submit written certification, application or renewal fee, identifying information, information on physician primary caregiver (who may be a nonprofit dispensary). If patient designates more than 1 primary caregiver, only 1 may cultivate marijuana plants.</p> <p>For a minor patient, physician must have discussed risks and benefits and parent, guardian or person with legal custody must consent and be a primary caregiver and control acquisition, dosage and frequency of use by the patient.</p> <p>DHHS must verify information on application or renewal and decide within 30 days. Limits reasons for denial. Allows appeal to Superior Court.</p> <p>Requires DHHS to issue primary caregiver registry identification card, allowing only 1 person to cultivate for the patient, based on patient choice.</p> <p>Requires DHHS to issue registry identification cards within 5 days of approval, provides for 1 year effect</p> |

| LD 975                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Notes                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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| <p><u>issuance. Registry identification cards must contain:</u></p> <ul style="list-style-type: none"> <li>A. The name, address and date of birth of the qualifying patient;</li> <li>B. The name, address and date of birth of each primary caregiver, if any, of the qualifying patient;</li> <li>C. The date of issuance and expiration date of the registry identification card;</li> <li>D. A random identification number that is unique to the cardholder;</li> <li>E. A photograph, if the department decides to require one; and</li> <li>F. A clear designation showing whether the cardholder will be allowed under state law to cultivate marijuana plants for the qualifying patient's medical use, which must be determined based solely on the qualifying patient's preference.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <p>for cards. Requires cards to contain information on patient, Primary caregiver, issuance of card, random identification number, whether person may cultivate. Allows use of photo of DHHS decides to do so.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p><u>6. Notification of changes in status or loss of card.</u> This subsection governs notification of changes in status or the loss of a registry identification card.</p> <ul style="list-style-type: none"> <li>A. A registered qualifying patient shall notify the department within 10 days of any change in the registered qualifying patient's name, address, primary caregiver or preference regarding who may cultivate marijuana for the registered qualifying patient or if the registered qualifying patient ceases to have a debilitating medical condition.</li> <li>B. A registered qualifying patient who fails to notify the department as required under paragraph A commits a civil violation for which a fine of not more than \$150 may be adjudged. If the registered qualifying patient's certifying physician notifies the department in writing that the registered qualifying patient has ceased to suffer from a debilitating medical condition, the registered qualifying patient's registry identification card becomes void upon notification by the department to the qualifying patient.</li> <li>C. A registered primary caregiver shall notify the department of any change in the caregiver's name or address within 10 days of such change. A registered primary caregiver who fails to notify the department of any of these changes commits a civil violation for which a fine of not more than \$150 may be adjudged.</li> <li>D. When a registered qualifying patient or registered primary caregiver notifies the department of any changes listed in this subsection, the department shall issue the registered qualifying patient and each registered primary caregiver a new registry identification card within 10 days of receiving the updated information and a \$10 fee.</li> <li>E. When a registered qualifying patient changes the patient's registered primary caregiver, the department shall notify the old primary caregiver within 10 days. The old primary caregiver's protections as provided in this chapter expire 10 days after notification by the department.</li> <li>F. If a cardholder loses the cardholder's registry identification card, the cardholder shall notify the department and submit a \$10 fee within 10 days of losing the card. Within 5 days after such notification, the department shall issue a new registry identification card with a new random identification number.</li> </ul> | <p>Requires registered qualifying patient to notify DHHS if debilitating medical condition ceases, change of name or address. Penalties for failure to do so.</p> <p>Requires registered primary caregiver to notify DHHS of change of name or address, penalties for failure to do so.</p> <p>DHHS issue new identification cards for changes listed in this subsection, fee.</p> <p>Provisions for change of primary caregiver and notice to old caregiver.</p> <p>Notice to DHHS of loss of identification card, reissue, fee and new random identification number.</p> <p>Protection from search or person and property of person who possesses or applies for a registry identification card.</p> |
| <p><u>7. Possession of or application for card not probable cause for search.</u> Possession of, or application for, a registry identification card does not constitute probable cause or reasonable suspicion, nor may it be used to support the search of the person or property of the person possessing or applying for the registry identification card. The possession of, or application for, a registry identification card does not prevent the issuance of a warrant if probable cause exists on other grounds.</p> <p><u>8. Confidentiality.</u> This subsection governs confidentiality.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>Designates as confidential</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

- A. Applications and supporting information submitted by qualifying patients under this chapter, including information regarding their primary caregivers and physicians, are confidential.
- B. Applications and supporting information submitted by primary caregivers operating in compliance with this chapter, including the physical address of a nonprofit dispensary, are confidential.
- C. The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list are confidential, exempt from the freedom of access laws, Title 1, chapter 13, and not subject to disclosure except to authorized employees of the department as necessary to perform official duties of the department.
- D. The department shall verify to law enforcement personnel whether a registry identification card is valid without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.
- E. A person, including an employee or official of the department or another state agency or local government, who breaches the confidentiality of information obtained pursuant to this chapter commits a Class E crime. Notwithstanding this subsection, department employees may notify law enforcement about falsified or fraudulent information submitted to the department as long as the employee who suspects that falsified or fraudulent information has been submitted confers with the employee's supervisor and both agree that circumstances exist that warrant reporting.
9. Cardholder who sells marijuana to person not allowed to possess. Any cardholder who sells marijuana to a person who is not allowed to possess marijuana for medical purposes under this chapter must have that cardholder's registry identification card revoked and is liable for any other penalties for the sale of marijuana. The department may revoke the registry identification card of any cardholder who violates this chapter, and the cardholder is liable for any other penalties for the violation.
10. Annual report. The department shall submit to the Legislature an annual report that does not disclose any identifying information about cardholders or physicians, but does contain, at a minimum:
- A. The number of applications and renewals filed for registry identification cards;
  - B. The number of qualifying patients and primary caregivers approved in each county;
  - C. The nature of the debilitating medical conditions of the qualifying patients;
  - D. The number of registry identification cards revoked;
  - E. The number of physicians providing written certifications for qualifying patients;
  - F. The number of registered nonprofit dispensaries; and

application and supporting information submitted by qualifying patients, primary caregivers and physicians and nonprofit dispensaries.

DHHS required to maintain confidential list of persons to whom identification cards have been issued, disclosure only to authorized employees of DHHS for official duties.

DHHS required to verify identification card information to law enforcement without revealing more information than needed.

Class E crime for breach of confidentiality.

DHHS staff may reveal falsified or fraudulent information submitted to DHHS in certain circumstances.

Identification cardholder who sells marijuana to a person not allowed to possess marijuana under the chapter forfeits identification card and is subject to other penalties.

DHHS submit annual report to Legislature.



| Notes                            | LD 975                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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| Limitation of effect of chapter. | <p data-bbox="112 884 133 1969">G. The number of principal officers, board members, employees and agents of nonprofit dispensaries.</p> <p data-bbox="171 1871 196 2028"><b>§ 2426. Scope</b></p> <p data-bbox="251 1304 275 1969"><b>1. Limitations.</b> This chapter does not permit any person to:</p> <p data-bbox="312 604 337 1969">A. Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice;</p> <p data-bbox="373 1167 398 1969">B. Possess marijuana or otherwise engage in the medical use of marijuana:</p> <p data-bbox="452 1696 477 1902">(1) In a school bus;</p> <p data-bbox="531 1142 556 1902">(2) On the grounds of any preschool or primary or secondary school; or</p> <p data-bbox="609 1575 634 1902">(3) In any correctional facility;</p> <p data-bbox="688 1734 713 1969">C. Smoke marijuana:</p> <p data-bbox="768 1434 792 1902">(1) On any form of public transportation; or</p> <p data-bbox="847 1654 872 1902">(2) In any public place;</p> <p data-bbox="926 491 981 1969">D. Operate, navigate or be in actual physical control of any motor vehicle, aircraft or motorboat while under the influence of marijuana;</p> <p data-bbox="1019 1125 1044 1969">E. Use marijuana if that person does not have a debilitating medical condition.</p> <p data-bbox="1082 1260 1106 1969"><b>2. Construction.</b> This chapter may not be construed to require:</p> <p data-bbox="1144 491 1199 1969">A. A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana; or</p> <p data-bbox="1237 491 1291 1969">B. An employer to accommodate the ingestion of marijuana in any workplace or any employee working while under the influence of marijuana.</p> <p data-bbox="1329 491 1417 2028"><b>3. Penalty for fraudulent representation.</b> Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution is a civil violation punishable by a fine of \$500, which must be in addition to any other penalties that may apply for making a false statement or for the use of marijuana other than use undertaken pursuant to this chapter.</p> |
|                                  | <p>Chapter not to be read to require insurance coverage for medical use of marijuana or employer accommodation for use of marijuana at work or working under the influence of marijuana.</p> <p>Designates as a civil violation fraudulent representation to law enforcement about medical use of marijuana and allows penalties for making false statements.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |



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| <p><b>§ 2427. Affirmative defense and dismissal for medical marijuana</b></p> <p><b>1. Affirmative defense.</b> Except as provided in section 2426, a qualifying patient and a qualifying patient's primary caregiver, other than a nonprofit dispensary, may assert the medical purpose for using marijuana as a defense to any prosecution involving marijuana, and this defense must be presumed valid where the evidence shows that:</p> <p>A. A physician has stated that, in the physician's professional opinion, after having completed a full assessment of the qualifying patient's medical history and current medical condition made in the course of a bona fide physician-patient relationship, the qualifying patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition;</p> <p>B. The qualifying patient and the qualifying patient's primary caregiver, if any, were collectively in possession of a quantity of marijuana that was not more than was reasonably necessary to ensure the uninterrupted availability of marijuana for the purpose of treating or alleviating the qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition; and</p> <p>C. The qualifying patient and the qualifying patient's primary caregiver, if any, were engaged in the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana solely to treat or alleviate the qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition.</p> <p><b>2. Motion to dismiss.</b> A person may assert the medical purpose for using marijuana in a motion to dismiss, and the charges must be dismissed following an evidentiary hearing where the person proves the elements listed in subsection 1.</p> <p><b>3. No sanction for medical use of marijuana.</b> If a qualifying patient or a qualifying patient's primary caregiver demonstrates the qualifying patient's medical purpose for using marijuana pursuant to this section, the qualifying patient and the qualifying patient's primary caregiver may not be subject, for the qualifying patient's medical use of marijuana, to any state sanction, including:</p> <p>A. Disciplinary action by a business or occupational or professional licensing board or bureau; and</p> <p>B. Forfeiture of any interest in or right to property.</p> | <p>Allows qualifying patient and primary caregiver to use the chapter as a defense in a prosecution involving marijuana. Not nonprofit dispensary.</p> <p>Allows for motion to dismiss and dismissal for proof of elements qualifying under the chapter.</p> <p>Prohibits licensing disciplinary action and forfeiture of interest in property against the qualifying patient and primary caregiver for use of marijuana under the chapter.</p> |
| <p><b>§ 2428. Nonprofit dispensaries</b></p> <p><b>1. Provisions pertaining to primary caregiver apply to nonprofit dispensary.</b> All provisions of this chapter pertaining to a primary caregiver apply to a nonprofit dispensary unless they conflict with a provision contained in this section.</p> <p><b>2. Registration requirements.</b> This subsection governs the registration of a nonprofit dispensary.</p> <p>A. The department shall register a nonprofit dispensary and issue a registration certificate within 30 days to any person or entity that provides:</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p>Applies provisions of chapter applicable to primary caregiver to nonprofit dispensary unless in conflict.</p> <p>Requires DHHS to register nonprofit dispensaries.</p> <p>Fee is \$5000.</p>                                                                                                                                                                                                                                                 |

| LD 975                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Notes                                                                                                                                                                                                                                                                                                                                                                                        |
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| <p>(1) <u>A fee paid to the department in the amount of \$5,000;</u></p> <p>(2) <u>The legal name of the nonprofit dispensary;</u></p> <p>(3) <u>The physical address of the nonprofit dispensary and the physical address of one additional location, if any, where marijuana will be cultivated;</u></p> <p>(4) <u>The name, address and date of birth of each principal officer and board member of the nonprofit dispensary; and</u></p> <p>(5) <u>The name, address and date of birth of any person who is an agent of or employed by the nonprofit dispensary.</u></p> <p>B. <u>The department shall track the number of registered qualifying patients who designate a nonprofit dispensary as a primary caregiver and issue to each nonprofit dispensary a written statement of the number of qualifying patients who have designated the nonprofit dispensary to cultivate marijuana for them. This statement must be updated each time a new registered qualifying patient designates the nonprofit dispensary or ceases to designate the nonprofit dispensary and may be transmitted electronically if the department's rules so provide. The department may provide by rule that the updated written statements may not be issued more frequently than once each week.</u></p> <p>C. <u>The department shall issue each principal officer, board member, agent and employee of a nonprofit dispensary a registry identification card within 10 days of receipt of the person's name, address and date of birth under paragraph A and a fee in an amount established by the department. Each card must specify that the cardholder is a principal officer, board member, agent or employee of a nonprofit dispensary and must contain:</u></p> <p>(1) <u>The name, address and date of birth of the principal officer, board member, agent or employee;</u></p> <p>(2) <u>The legal name of the nonprofit dispensary with which the principal officer, board member, agent or employee is affiliated;</u></p> <p>(3) <u>A random identification number that is unique to the cardholder;</u></p> <p>(4) <u>The date of issuance and expiration date of the registry identification card; and</u></p> <p>(5) <u>A photograph, if the department decides to require one.</u></p> <p>D. <u>The department may not issue a registry identification card to any principal officer, board member, agent or employee of a nonprofit dispensary who has been convicted of a felony drug offense. The department may conduct a background check of each principal officer, board member, agent or employee in order to carry out this provision. The department shall notify the nonprofit dispensary in writing of the purpose for denying the registry identification card.</u></p> <p><b>3. Rules.</b> <u>Not later than 120 days after the effective date of this chapter, the department shall adopt rules governing the manner in which it considers applications for and renewals of registration certificates for nonprofit dispensaries, including rules governing:</u></p> | <p>DHHS required to track number of qualifying patients designating a nonprofit dispensary as a primary caregiver to cultivate marijuana.</p> <p>DHHS issue identification cards to principal officers, board members, agents and employees.</p> <p>Person disqualified if convicted of a felony drug offense.</p> <p>DHHS required to adopt rules for nonprofit dispensary registration</p> |

| LD 975                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Notes                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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| <p>A. <u>The form and content of registration and renewal applications;</u></p> <p>B. <u>Minimum oversight requirements for nonprofit dispensaries;</u></p> <p>C. <u>Minimum record-keeping requirements for nonprofit dispensaries;</u></p> <p>D. <u>Minimum security requirements for nonprofit dispensaries; and</u></p> <p>E. <u>Procedures for suspending or terminating the registration of nonprofit dispensaries that violate the provisions of this section or the rules adopted pursuant to this subsection.</u></p> <p>4. <u><b>Expiration.</b> A nonprofit dispensary registration certificate and the registry identification card for each principal officer, board member, agent or employee expire one year after the date of issuance. The department shall issue a renewal nonprofit dispensary registration certificate and renewal registry identification cards within 10 days to any person who complies with the requirements contained in subsection 2. A registry identification card of a principal officer, board member, agent or employee expires 10 days after notification by a nonprofit dispensary that such person ceases to work at the nonprofit dispensary.</u></p> <p>5. <u><b>Inspection.</b> A nonprofit dispensary is subject to reasonable inspection by the department. The department shall give reasonable notice of an inspection under this subsection.</u></p> <p>6. <u><b>Nonprofit dispensary requirements.</b> This subsection governs the operations of nonprofit dispensaries.</u></p> <p>A. <u>A nonprofit dispensary must be operated on a not-for-profit basis for the mutual benefit of its members and patrons. The bylaws of a nonprofit dispensary and its contracts with patrons must contain such provisions relative to the disposition of revenues and receipts as may be necessary and appropriate to establish and maintain its nonprofit character. A nonprofit dispensary need not be recognized as a tax-exempt organization under 26 United States Code, Section 501(c)(3) and is not required to incorporate pursuant to Title 13-B.</u></p> <p>B. <u>A nonprofit dispensary may not be located within 500 feet of the property line of a preexisting public or private school.</u></p> <p>C. <u>A nonprofit dispensary shall notify the department within 10 days of when a principal officer, board member, agent or employee ceases to work at the nonprofit dispensary.</u></p> <p>D. <u>A nonprofit dispensary shall notify the department in writing of the name, address and date of birth of any new principal officer, board member, agent or employee and shall submit a fee in an amount established by the department for a new registry identification card before the new principal officer, board member, agent or employee begins working at the nonprofit dispensary.</u></p> <p>E. <u>A nonprofit dispensary shall implement appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana.</u></p> <p>F. <u>The operating documents of a nonprofit dispensary must include procedures for the oversight of the nonprofit dispensary and procedures to ensure accurate record keeping.</u></p> | <p>certificate.</p> <p>Nonprofit dispensary registration certificate lasts for 1 year.</p> <p>DHHS allowed reasonable inspection of nonprofit dispensary, with reasonable notice.</p> <p>Nonprofit dispensary must be operated as a not-for-profit, for mutual benefit of its members, may not be located with 500 feet of a school.</p> <p>Nonprofit dispensary notify DHHS of changes of principal officers, board members, agents and employees. Also new ones. And submit fees for identification cards for new ones before they begin working.</p> <p>Appropriate security measures required.</p> <p>Oversight and accurate record keeping required.</p> |

**LD 975**

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| <p>Limited to any dealings with marijuana except for the purpose of assisting registered qualifying patients with medical use of marijuana and their primary caregivers in their duties.</p> <p>Principal officers and board members must be residents of Maine.</p> <p>Cultivation of marijuana must take place in enclosed locked facility.</p> <p>May not dispense more than 2 ½ ounces of usable marijuana to a qualifying patient or primary caregiver for the patient during a 15-day period.</p> <p>Nonprofit dispensary has immunity to prosecution, search, seizure and penalties and denial of rights, and disciplinary action for actions in accordance with chapter.</p> <p>Protection also for principal officers, board members, agents and employees.</p> <p>Nonprofit dispensary limited to 6 plants per registered qualifying patient who has designated the dispensary to cultivate.</p> <p>No dispensing to anyone other than a registered qualifying patient who has designated the dispensary or that person's other designated primary caregiver.</p> <p>DHHS required to revoke</p> | <p><u>G. A nonprofit dispensary is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing marijuana for any purpose except to assist registered qualifying patients with the medical use of marijuana directly or through the registered qualifying patients' other primary caregivers.</u></p> <p><u>H. All principal officers and board members of a nonprofit dispensary must be residents of this State.</u></p> <p><u>I. All cultivation of marijuana must take place in an enclosed, locked facility.</u></p> <p><u>7. Maximum amount of medical marijuana to be dispensed.</u> A nonprofit dispensary or a principal officer, board member, agent or employee of a nonprofit dispensary may not dispense more than 2 1/2 ounces of usable marijuana to a qualifying patient or to a primary caregiver on behalf of a qualifying patient during a 15-day period.</p> <p><u>8. Immunity.</u> This subsection governs immunity for a nonprofit dispensary.</p> <p><u>A. A nonprofit dispensary may not be subject to prosecution, search, seizure or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or entity, solely for acting in accordance with this section to provide usable marijuana to or to otherwise assist registered qualifying patients to whom it is connected through the department's registration process with the medical use of marijuana.</u></p> <p><u>B. Principal officers, board members, agents and employees of a registered nonprofit dispensary may not be subject to arrest, prosecution, search, seizure or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or entity, solely for working for or with a nonprofit dispensary to provide usable marijuana to or to otherwise assist registered qualifying patients to whom the nonprofit dispensary is connected through the department's registration process with the medical use of marijuana in accordance with this chapter.</u></p> <p><u>9. Prohibitions.</u> The prohibitions in this subsection apply to a nonprofit dispensary.</p> <p><u>A. A nonprofit dispensary may not possess more than 6 live marijuana plants for each registered qualifying patient who has designated the nonprofit dispensary as a primary caregiver and designated that the dispensary will be permitted to cultivate marijuana for the registered qualifying patient's medical use.</u></p> <p><u>B. A nonprofit dispensary may not dispense, deliver or otherwise transfer marijuana to a person other than a qualifying patient who has designated the nonprofit dispensary as a primary caregiver or to the patient's other registered primary caregiver.</u></p> <p><u>C. The department shall immediately revoke the registry identification card of a principal officer, board member, employee or agent of a</u></p> |

| Notes                                                                                                                                                                                                  | LD 975                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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| identification card of someone at dispensary who violates this section.                                                                                                                                | nonprofit dispensary who is found to have violated paragraph B, and such a person is disqualified from serving as a principal officer, board member, employee or agent of a nonprofit dispensary.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Person convicted of a felony drug offense excluded.                                                                                                                                                    | D. A person who has been convicted of a felony drug offense may not be a principal officer, board member, agent or employee of a nonprofit dispensary.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Penalties.                                                                                                                                                                                             | (1) A person who is employed by or is an agent, principal officer or board member of a nonprofit dispensary in violation of this paragraph commits a civil violation for which a fine of not more than \$1,000 may be adjudged.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Nonprofit dispensary may acquire marijuana only through cultivation at dispensary.                                                                                                                     | (2) A person who is employed by or is an agent, principal officer or board member of a nonprofit dispensary in violation of this paragraph and who at the time of the violation has been previously found to have violated this paragraph commits a Class D crime.                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Municipality may limit number of nonprofit dispensaries and may enact reasonable zoning regulations.                                                                                                   | E. A nonprofit dispensary may not acquire usable marijuana or mature marijuana plants except through the cultivation of marijuana by that nonprofit dispensary.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|                                                                                                                                                                                                        | 10. <u>Local regulation.</u> This chapter does not prohibit a political subdivision of this State from limiting the number of nonprofit dispensaries that may operate in the political subdivision or from enacting reasonable zoning regulations applicable to nonprofit dispensaries.                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Penalty if DHHS fails to implement within 120 days of effective date.                                                                                                                                  | <u>§ 2429. Enforcement</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Penalty if DHHS fails to issue valid registry identification cards or registration certificates. Registry identification card and registration certificates are deemed granted.                        | 1. <u>Department fails to adopt rules.</u> If the department fails to adopt rules to implement this chapter within 120 days of the effective date of this chapter, a qualifying patient may commence an action in Superior Court to compel the department to perform the actions mandated pursuant to the provisions of this chapter.                                                                                                                                                                                                                                                                                                                                                                                       |
| If DHHS fails to accept applications, notarized statement is deemed valid registry identification card.                                                                                                | 2. <u>Department fails to issue a valid registry identification card.</u> If the department fails to issue a valid registry identification card or a registration certificate in response to a valid application or renewal submitted pursuant to this chapter within 45 days of its submission, the registry identification card or registration certificate is deemed granted, and a copy of the registry identification application or renewal is deemed a valid registry identification card.                                                                                                                                                                                                                           |
|                                                                                                                                                                                                        | 3. <u>Department fails to accept applications.</u> If at any time after the 140 days following the effective date of this chapter the department is not accepting applications, including if it has not adopted rules allowing qualifying patients to submit applications, a notarized statement by a qualifying patient containing the information required in an application, pursuant to section 2425, subsection 1, is deemed a valid registry identification card.                                                                                                                                                                                                                                                     |
| Notes                                                                                                                                                                                                  | LD 1070                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Directs UMO to conduct a pilot project re: growing and benefits of medical marijuana. Purposes: growing and dispensing for medical purposes, studying pain reduction and other beneficial effects with | Sec. 1 <u>University of Maine to conduct a pilot project regarding the benefits of medical marijuana. Resolved:</u> That the University of Maine at Orono shall conduct a pilot project regarding the growing and benefits of medical marijuana. The University of Maine College of Natural Sciences, Forestry and Agriculture and the University of Maine School of Nursing shall collaborate in the pilot project by growing and dispensing marijuana for medical purposes and studying pain reduction and other beneficial effects of the marijuana with individuals who are allowed to possess and use marijuana under the Maine Revised Statutes, Title 22, section 2383-B, subsection 5. Any revenue derived from the |

**LD 975**

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| sale of marijuana to individuals allowed to possess and use marijuana under Title 22, section 2383-B, subsection 5 must be retained by the University of Maine at Orono to support expenses of the pilot project. | <b>Notes</b><br>persons entitled to possess and use under current medical use of marijuana law. Revenue from sale of marijuana to persons entitled to possess must be retained by UMO to support the pilot project. |
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# LD 975, MEDICAL MARIJUANA INITIATED BILL AND LD 1070, MEDICAL MARIJUANA PILOT PROJECT

| LD 975                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Notes                                                               |
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| <p><b>Sec. 1. 15 MRSA §5821-A</b>, as enacted by IB 1999, c. 1, §3, is amended to read:</p> <p><b>§ 5821-A. Property not subject to forfeiture based on medical use of marijuana</b></p> <p>Beginning January 1, 1999, <del>property</del>Property is not subject to forfeiture under this chapter if the activity that subjects the person's property to forfeiture is <del>possession</del>medical use of marijuana and the person meets the requirements for medical use of marijuana under Title 22, section 2383-B, <del>subsection 5</del>chapter 558-C.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <p>Corrects cross-reference to reflect this law once it passes.</p> |
| <p><b>Sec. 2. 17-A MRSA §1111-A, sub-§1</b>, as amended by PL 2001, c. 383, §135 and affected by §156, is further amended to read:</p> <p>1. As used in this section the term "drug paraphernalia" means all equipment, products and materials of any kind that are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a scheduled drug in violation of this chapter or Title 22, section 2383, except that this section does not apply to a person who is authorized to possess marijuana for medical use pursuant to Title 22, <del>section 2383-B, subsection 5</del>chapter 558-C, to the extent the drug paraphernalia is <del>required</del>used for that person's medical use of marijuana. It includes, but is not limited to:</p> <ul style="list-style-type: none"> <li>A. Kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a scheduled drug or from which a scheduled drug can be derived;</li> <li>B. Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing scheduled drugs;</li> <li>C. Isomerization devices used or intended for use in increasing the potency of any species of plant that is a scheduled drug;</li> <li>D. Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of scheduled drugs;</li> <li>E. Scales and balances used or intended for use in weighing or measuring scheduled drugs;</li> <li>F. Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use in cutting scheduled drugs;</li> <li>G. Separation gins and sifters, used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;</li> <li>H. Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding scheduled drugs;</li> <li>I. Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of scheduled drugs;</li> <li>J. Containers and other objects used or intended for use in storing or concealing scheduled drugs; and</li> <li>K. Objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as: <ul style="list-style-type: none"> <li>(1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;</li> <li>(2) Water pipes;</li> <li>(3) Carburetion tubes and devices;</li> <li>(4) Smoking and carburetion masks;</li> <li>(5) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;</li> <li>(6) Miniature cocaine spoons and cocaine vials;</li> <li>(7) Chamber pipes;</li> </ul> </li> </ul> | <p>Corrects cross-reference.</p>                                    |

| LD 975                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Notes                                                                                                                                                                                                                                                                     |
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| <p>(8) Carburetor pipes;<br/> (9) Electric pipes;<br/> (10) Air-driven pipes;<br/> (11) Chillums;<br/> (12) Bongs; or<br/> (13) Ice pipes or chillers.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                           |
| <p><b>Sec. 3. 22 MRSA §2383, sub-§1</b>, as amended by PL 2005, c. 386, Pt. DD, §3, is further amended to read:</p> <p><b>1. Marijuana.</b> Except as provided in <del>section 2383-B, subsection 5</del> <u>chapter 558-C</u>, a person may not possess marijuana.</p> <p>A. A person who possesses a usable amount of marijuana commits a civil violation for which a fine of not less than \$350 and not more than \$600 must be adjudged, none of which may be suspended.</p> <p>B. A person who possesses a usable amount of marijuana after having previously violated this subsection within a 6-year period commits a civil violation for which a fine of \$550 must be adjudged, none of which may be suspended.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p>Corrects cross-reference.</p>                                                                                                                                                                                                                                          |
| <p><b>Sec. 4. 22 MRSA §2383-B, sub-§5</b>, as amended by PL 2001, c. 580, §3, is repealed.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <p>Repeals current law on medical use of marijuana.</p>                                                                                                                                                                                                                   |
| <p><b>Sec. 5. 22 MRSA c. 558-C</b> is enacted to read:</p> <p style="text-align: center;"><b><u>CHAPTER 558-C</u></b></p> <p style="text-align: center;"><b><u>Maine Medical Marijuana Act</u></b></p> <p><b>§ 2421. Short title</b></p> <p><u>This chapter may be known and cited as "the Maine Medical Marijuana Act."</u></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p>Enacts new law. Establishes a system within DHHS to issue registration cards to qualifying patients, primary caregivers and officers, board members, employees and agents of nonprofit dispensaries. Provides legal protections for persons acting within the law.</p> |
| <p><b>§ 2422. Definitions</b></p> <p><u>As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.</u></p> <p><b>1. Cardholder.</b> "Cardholder" means a qualifying patient, a primary caregiver or a principal officer, board member, employee or agent of a nonprofit dispensary who has been issued and possesses a valid registry identification card.</p> <p><b>2. Debilitating medical condition.</b> "Debilitating medical condition" means:</p> <p>A. <u>Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, nail-patella syndrome or the treatment of these conditions;</u></p> <p>B. <u>A chronic or debilitating disease or medical condition or its treatment that produces intractable pain, which is pain that has not responded to ordinary medical or surgical measures for more than 6 months;</u></p> <p>C. <u>A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe nausea; seizures, including but not limited to those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis; or</u></p> <p>D. <u>Any other medical condition or its treatment approved by the department as provided for in section 2424, subsection 2.</u></p> | <p>Provides definitions.</p> <p>Defines cardholder.</p> <p>Defines debilitating condition.</p>                                                                                                                                                                            |



| LD 975                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Notes                                           |
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| <p><b>3. Enclosed, locked facility.</b> <u>"Enclosed, locked facility" means a closet, room, greenhouse or other enclosed area equipped with locks or other security devices that permit access only by a cardholder.</u></p>                                                                                                                                                                                                                                                                                              | <p>Defines enclosed, locked facility.</p>       |
| <p><b>4. Felony drug offense.</b> <u>"Felony drug offense" means a violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted. It does not include:</u></p> <p><u>A. An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years earlier; or</u></p> <p><u>B. An offense that consisted of conduct that would have been permitted under this chapter.</u></p> | <p>Defines felony drug offense.</p>             |
| <p><b>5. Medical use.</b> <u>"Medical use" means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.</u></p>                                                                                                                       | <p>Defines medical use.</p>                     |
| <p><b>6. Nonprofit dispensary.</b> <u>"Nonprofit dispensary" means a not-for-profit entity registered under section 2428 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to cardholders. A nonprofit dispensary is a primary caregiver.</u></p>                                                                                                                                                  | <p>Defines nonprofit dispensary.</p>            |
| <p><b>7. Physician.</b> <u>"Physician" means a person licensed as an osteopathic physician by the Board of Osteopathic Licensure pursuant to Title 32, chapter 36 or a person licensed as a physician or surgeon by the Board of Licensure in Medicine pursuant to Title 32, chapter 48.</u></p>                                                                                                                                                                                                                           | <p>Defines physician.</p>                       |
| <p><b>8. Primary caregiver.</b> <u>"Primary caregiver" means a person who is at least 21 years of age who has agreed to assist with a qualifying patient's medical use of marijuana and who has never been convicted of a felony drug offense. Unless the primary caregiver is a nonprofit dispensary, the primary caregiver may assist no more than 5 qualifying patients with their medical use of marijuana.</u></p>                                                                                                    | <p>Defines primary caregiver.</p>               |
| <p><b>9. Qualifying patient.</b> <u>"Qualifying patient" means a person who has been diagnosed by a physician as having a debilitating medical condition.</u></p>                                                                                                                                                                                                                                                                                                                                                          | <p>Defines qualifying patient.</p>              |
| <p><b>10. Registered nonprofit dispensary.</b> <u>"Registered nonprofit dispensary" means a nonprofit dispensary that is registered by the department pursuant to section 2428, subsection 2, paragraph A.</u></p>                                                                                                                                                                                                                                                                                                         | <p>Defines registered nonprofit dispensary.</p> |
| <p><b>11. Registered primary caregiver.</b> <u>"Registered primary caregiver" means a primary caregiver who is registered by the department pursuant to section 2425, subsection 4.</u></p>                                                                                                                                                                                                                                                                                                                                | <p>Defines registered primary caregiver.</p>    |
| <p><b>12. Registered qualifying patient.</b> <u>"Registered qualifying patient" means a qualifying patient who is registered by the department pursuant to section 2425, subsection 1.</u></p>                                                                                                                                                                                                                                                                                                                             | <p>Defines registered qualifying patient.</p>   |
| <p><b>13. Registry identification card.</b> <u>"Registry identification card" means a document issued by the department that identifies a person as a registered qualifying patient, registered primary caregiver or a principal officer, board member, employee or agent of a nonprofit dispensary.</u></p>                                                                                                                                                                                                               | <p>Defines registry identification card.</p>    |
| <p><b>14. Usable marijuana.</b> <u>"Usable marijuana" means the dried leaves and flowers of the marijuana plant, and any mixture or preparation of those dried leaves and flowers, but does not include the seeds, stalks and roots of the plant and does not include the weight of other ingredients in marijuana prepared for consumption as food.</u></p>                                                                                                                                                               | <p>Defines usable marijuana.</p>                |

| LD 975                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Notes                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| <p><b>15. Visiting qualifying patient.</b> "Visiting qualifying patient" means a patient with a debilitating medical condition who is not a resident of this State or who has been a resident of this State less than 30 days.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <p>Defines visiting qualifying patient.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p><b>16. Written certification.</b> "Written certification" means a document signed by a physician and stating that in the physician's professional opinion a patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. A written certification may be made only in the course of a bona fide physician-patient relationship after the physician has completed a full assessment of the qualifying patient's medical history. The written certification must specify the qualifying patient's debilitating medical condition.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <p>Defines written certification.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <p><b>§ 2423. Protections for the medical use of marijuana</b></p> <p><b>1. Qualifying patient.</b> A qualifying patient who has been issued and possesses a registry identification card may not be subject to arrest, prosecution or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the medical use of marijuana in accordance with this chapter as long as the qualifying patient possesses an amount of marijuana that:</p> <p>A. Is not more than 2 1/2 ounces of usable marijuana; and</p> <p>B. If the qualifying patient has not specified that a primary caregiver is allowed under state law to cultivate marijuana for the qualifying patient, does not exceed 6 marijuana plants, which must be kept in an enclosed, locked facility unless they are being transported because the qualifying patient is moving or they are being transported to the qualifying patient's property.</p> <p><b>2. Primary caregiver.</b> A primary caregiver, other than a nonprofit dispensary, who has been issued and possesses a registry identification card may not be subject to arrest, prosecution or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for assisting a qualifying patient to whom the primary caregiver is connected through the department's registration process with the medical use of marijuana in accordance with this chapter as long as the primary caregiver possesses an amount of marijuana that:</p> <p>A. Is not more than 2 1/2 ounces of usable marijuana for each qualifying patient to whom the primary caregiver is connected through the department's registration process; and</p> <p>B. For each qualifying patient who has specified that the primary caregiver is allowed under state law to cultivate marijuana for the qualifying patient, does not exceed 6 marijuana plants, which must be kept in an enclosed, locked facility unless they are being transported because the primary caregiver is moving.</p> <p><b>3. Incidental amount of marijuana.</b> Any incidental amount of seeds, stalks and unusable roots must be allowed and may not be included in the amounts specified in this section.</p> <p><b>4. Presumption.</b> There is a presumption that a qualifying patient or primary caregiver is engaged in the medical use of marijuana in accordance with this chapter if the qualifying patient or primary caregiver:</p> <p>A. Is in possession of a registry identification card; and</p> <p>B. Is in possession of an amount of marijuana that does not exceed the amount allowed under this chapter.</p> | <p>Protects a qualifying patient who has been issued a registration card from arrest, prosecution or penalty, including action by licensing boards, for medical use of marijuana provided the patient possesses not more than 2 ½ ounces of marijuana plus 6 plants if the patient has not designated a primary caregiver to cultivate marijuana for the patient. Requires the plants to be kept locked and enclosed.</p> <p>Protects a primary caregiver who has been issued an identification card from arrest, prosecution or penalty, including action by licensing boards, for assisting a qualifying patient with whom the caregiver is connected through the registration process for possession of marijuana, not more than 2 ½ ounces and 6 plants per qualifying patient. Requires the plants to be kept locked and enclosed.</p> <p>Excludes from the amount seeds, stalks and unusable roots.</p> <p>Provides presumption of medical use of marijuana if qualifying patient and primary caregiver have registration ID cards and no more than the protected amount of marijuana.</p> |

## **Introduction to Medical Use of Marijuana under Title 22, section 2383-B, subsection 5**

Jane Orbeton, OPLA, March 25, 2009

- ✓ In Maine medical use of marijuana is an exemption to the general prohibition against possession, absent a valid prescription, of scheduled drugs, prescription drugs and controlled substances.
- ✓ The medical use of marijuana law allows the possession, use or cultivation of a "useable amount" of marijuana by certain eligible persons, who have certain medical conditions, under certain circumstances.
- ✓ The medical use of marijuana law provides an affirmative defense to prosecution under Maine law but has no effect whatever with regard to federal drug laws. It does not apply to possession of marijuana in a public place or in a workplace where it is not permitted.
- ✓ The medical use of marijuana law does not provide a legal way for qualifying persons to obtain marijuana other than allowing designated caregivers to possess it and furnish it to the eligible person. The law does not provide a legal way for a designated caregiver to obtain marijuana.

### **What are the requirements for a person to be eligible to possess marijuana for medical use?**

The person must have in their possession an authenticated copy of their medical record or other written documentation from their physician that shows that:

- The person suffers from glaucoma, seizures associated with a disease such as epilepsy, persistent muscle spasms associated with a disease such as MS or persistent nausea, vomiting, wasting syndrome or loss of appetite as a result of AIDS or treatment for AIDS or chemotherapy or radiation therapy used for cancer treatment; AND
- The person must be under the continuing care of a physician who has discussed the possible risks and benefits of medical use of marijuana and who has provided the person with the physician's professional opinion of the balance of risks and benefits and advice about possible benefits to relieve pain or alleviate symptoms; AND
- The person must have disclosed to the physician that he or she uses marijuana for medical purposes.

Being an eligible person is a defense to possession, use or cultivation of a useable amount of marijuana.

### **How much marijuana may the eligible person possess?**

- The amount of marijuana is limited to 2 ½ ounces or less of harvested marijuana and a total of 6 plants, no more than 3 of which may be mature, flowering plants.

### **What is a designated caregiver and what does that caregiver do?**

- The designated caregiver must be the parent or legal guardian of the person or an adult who lives in the same household or is in the same family or who has consistently assumed responsibility for housing, health or safety of the person; AND the designated caregiver must be named in a written individual instruction or power of attorney for health care.
- The designated caregiver may possess a useable amount of marijuana for the medical use by an eligible person AND must act within the scope of caregiver duties.
- Being a designated caregiver is a defense to possession, possession with intent to furnish, furnishing or cultivation of a useable amount of marijuana.

### **What are the limits to the Maine law?**

- The medical use of marijuana defense applies only to a useable amount of marijuana.
- The medical use of marijuana defense applies only to prosecutions by the State of Maine. Maine law cannot provide protection from prosecution under federal law.

| Jurisdiction   | Laws           | Effective Date | Statutory Citation                                        |
|----------------|----------------|----------------|-----------------------------------------------------------|
| North Carolina | 1971, c. 919   | 1-1-1972       | G.S. §§ 90-86 to 90-113.8.                                |
| North Dakota   | 1971, c. 235   | 7-1-1971       | NDCC 19-03.1-01 to 19-03.1-44.                            |
| Ohio           | 1975, p. 269   | 7-1-1976       | R.C. §§ 3719.01 to 3719.99.                               |
| Oklahoma       | 1971, c. 119   | 9-1-1971       | 63 Okl.St. Ann. §§ 2-101 to 2-610.                        |
| Oregon         | 1977, c. 745   | 7-1-1978       | ORS 475.005 to 475.285; 475.295, 475.940 to 475.999.      |
| Pennsylvania   | 1972, No. 64   | 6-14-1972      | 35 P.S. §§ 780-101 to 780-144.                            |
| Puerto Rico    | 1971, No. 4    | 180 days after | 24 L.P.R.A. §§ 2101 to 2607.                              |
| Rhode Island   | 1974, c. 183   | 6-23-1971      | Gen. Laws 1956, §§ 21-28-1.01 to 21-28-6.02.              |
| South Carolina | 1971, p. 800   | 6-17-1971      | Code 1976, §§ 44-53-110 to 44-53-590.                     |
| South Dakota   | 1970, c. 229   | 2-13-1970      | SDCL 34-20B-1 to 34-20B-114.                              |
| Tennessee      | 1971, c. 163   | 7-1-1971       | T.C.A. §§ 39-17-401 to 39-17-434, 53-11-301 to 53-11-452. |
| Texas          | 1973, c. 429   | 8-27-1973      | V.T.C.A. Health & Safety Code, §§ 481.001 to 482.005.     |
| Utah           | 1971, c. 145   | 1-1-1972       | U.C.A. 1953, 58-37-1 to 58-37-21.                         |
| Virgin Islands | 1971, No. 2961 | 30 days foll.  | 19 V.I.C. §§ 591 to 630a.                                 |
| Virginia       | 1970, c. 650   | 3-23-1971      | Code 1950, § 54.1-3400 et seq.                            |
| Washington     | 1971, c. 308   | 4-5-1970 *     | West's RCWA §§ 69.50.101 to 69.50.609.                    |
| West Virginia  | 1971, c. 54    | 5-21-1971      | Code, 60A-1-101 to 60A-6-605.                             |
| Wisconsin      | 1971, c. 219   | 6-10-1971      | W.S.A. 961.001 to 961.62.                                 |
| Wyoming        | 1971, c. 246   | 10-1-1972      | Wyo.Stat. Ann. §§ 35-7-1001 to 35-7-1060.                 |
|                |                | 3-4-1971 *     |                                                           |

1 The 1970, 1990, and 1994 versions of the Uniform Controlled Substances Act, while different, are similar in many of their provisions. The acts of the adopting jurisdictions will, therefore, generally contain many provisions common to all of those versions. Thus, it is often difficult to say with certitude that a jurisdiction has adopted one version of the act rather than another. For that reason, all jurisdictions adopting the Uniform Controlled Substances Act will be carried in an identical table found at the beginning of each of the versions of the act.

2 Note that Arkansas has adopted and retains the major provisions of both the Uniform Narcotic Drug Act and the Uniform Controlled Substances Act. See General Statutory Note, *infra*.

\* Date of approval.

## § 2383. Possession

1. **Marijuana.** Except as provided in section 2383-B, subsection 5, a person may not possess marijuana.

A. A person who possesses a usable amount of marijuana commits a civil violation for which a fine of not less than \$350 and not more than \$600 must be adjudged, none of which may be suspended.

B. A person who possesses a usable amount of marijuana after having previously violated this subsection within a 6-year period commits a civil violation for which a fine of \$550 must be adjudged, none of which may be suspended.

2. **Butyl nitrite and isobutyl nitrite.** A person who possesses a usable amount of butyl nitrite or isobutyl nitrite commits a civil violation for which a fine of not more than \$200 may be adjudged.

1969, c. 443, § 7; 1969, c. 568; 1971, c. 472, § 2, eff. June 21, 1971; 1971, c. 622, § 75-A, eff. March 15, 1972; 1973, c. 502; 1973, c. 546; 1975, c. 499, § 51, eff. May 1, 1976; 1987, c. 747, § 3; 1989, c. 344, § 3; 1989, c. 878, § A-127, eff. April 20, 1990; 1999, I.B. 2, § 6, eff. Dec. 23, 1999; 2003, c. 452, § K-18, eff. July 1, 2004; 2005, c. 386, § DD-3, eff. June 13, 2005.

## Historical and Statutory Notes

### 2005 Legislation

Laws 2005, c. 386, § DD-3, in subsec. 1, rewrite pars. A and B, which read:

"A. A person who possesses a usable amount of marijuana commits a civil violation for which a fine of not less than \$200 and not more than \$400 must be adjudged."

"B. A person who possesses a usable amount of marijuana after having previously violated this subsection within a 6-year period commits a

adjudged."

## Research References

### ALR Library

- 1 ALR 6th 549, Propriety of Lesser-Included-Offense Charge in State Prosecution of Narcotics Defendant—Marijuana Cases.
- 10 ALR 3rd 314, Lawfulness of Search of Motor Vehicle Following Arrest for Traffic Violation.

119 ALR 1399, Constitutionality, Construction, and Application of Uniform Narcotic Drug Act.

## § 2383-B. Authorized possession by individuals; exemptions

1. **Lawfully prescribed drugs.** A person to whom or for whose use any scheduled drug, prescription drug or controlled substance has been prescribed, sold or dispensed for a legitimate medical purpose by a physician, dentist, podiatrist, pharmacist or other person acting in the usual course of professional practice and authorized by law or rule to do so and the owner or the person having the custody or control of any animal for which any scheduled drug, prescription drug or controlled substance has been prescribed, sold or dispensed for a legitimate veterinary medical purpose by a licensed veterinarian acting in the usual course of professional veterinary practice may lawfully possess the drug or substance, except when in use, only in the container in which it was delivered by the person selling or dispensing the drug or substance. For purposes of this subsection, "when in use" includes reasonable repackaging for more convenient legitimate medical use.

2. **Others lawfully in possession.** Except as otherwise authorized or restricted, the following persons are authorized to possess, furnish and have control of scheduled or prescription drugs, controlled substances or hypodermic apparatuses:

- A. Common carriers or warehouse operators while engaged in lawfully transporting or storing prescription drugs or hypodermic apparatuses or any of their employees acting within the scope of their employment;
- B. Employees or agents of persons lawfully entitled to possession who have temporary, incidental possession while acting within the scope of their employment or agency;
- C. Persons whose possession is for the purpose of aiding public officers in performing their official duties while acting within the scope of their employment or duties;
- D. Law enforcement officers while acting within the scope of their employment and official duties;
- E. Physicians, dentists, podiatrists, pharmacists or other persons authorized by law or rule to administer, dispense, prescribe or sell scheduled or prescription drugs, controlled substances or hypodermic apparatuses while acting within the course of their professional practice; and
- F. With regard to the possession or furnishing of hypodermic apparatuses, persons authorized by the Bureau of Health pursuant to a hypodermic apparatus exchange program, certified under chapter 252-A while acting within the scope of their employment under such programs.

3. **Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Controlled substances" has the same meaning as defined in 21 United States Code, Section 812 (1970)<sup>1</sup> and 21 Code of Federal Regulations, Chapter II, Part 1308.<sup>2</sup>

A-1. "Designated care giver" means a person over 18 years of age who:

- (1) Is a family member or other person who has consistently assumed responsibility for the housing, health or safety of a person authorized to possess marijuana for medical use pursuant to subsection 5, paragraph A or B or who is a member of the same household as a person authorized to possess marijuana for medical use pursuant to subsection 5, paragraph A or B; and

- (2) Is named in a written individual instruction or power of attorney for health care as defined in Title 18-A, section 5-801 by, or is the parent or legal guardian of, a person authorized to possess marijuana for medical use pursuant to subsection 5.
- A-2. "Eligible patient" means a person authorized to possess marijuana for medical use pursuant to subsection 5.
- B. "Law enforcement officer" has the same meaning as defined in Title 17-A, section 2, subsection 17.

B-1. "Physician" means a person licensed as an osteopathic physician by the Board of Osteopathic Licensure pursuant to Title 32, chapter 36<sup>3</sup> or a person licensed as a physician or surgeon by the Board of Licensure in Medicine pursuant to Title 32, chapter 48.<sup>4</sup>

C. "Prescription drugs" has the same meaning as defined in Title 32, section 13702-A, subsection 30 and includes so-called legend drugs.

D. "Scheduled drug" has the same meaning as defined in Title 17-A, chapter 45.<sup>5</sup>

E. "Usable amount of marijuana for medical use" means 2 ½ ounces or less of harvested marijuana and a total of 6 plants, of which no more than 3 may be mature, flowering plants.

4. Repealed. Laws 1995, c. 621, § 3.

5. Medical use of marijuana; exemptions. The following provisions govern the medical use of marijuana.

A. Notwithstanding any other provision of law, a person who is at least 18 years of age may lawfully possess a usable amount of marijuana for medical use if, at the time of that possession, the person has available an authenticated copy of a medical record or other written documentation from a physician, demonstrating that:

(1) The person has been diagnosed by a physician as suffering from one or more of the following conditions:

- (a) Persistent nausea, vomiting, wasting syndrome or loss of appetite as a result of:
  - (i) Acquired immune deficiency syndrome or the treatment thereof; or
  - (ii) Chemotherapy or radiation therapy used to treat cancer;
- (b) Heightened intraocular pressure as a result of glaucoma;
- (c) Seizures associated with a chronic, debilitating disease, such as epilepsy; or
- (d) Persistent muscle spasms associated with a chronic, debilitating disease, such as multiple sclerosis;

(2) A physician, in the context of a bona fide physician-patient relationship with the person:

- (a) Has discussed with the person the possible health risks and therapeutic or palliative benefits of the medical use of marijuana to relieve pain or alleviate symptoms of the person's condition, based on information known to the physician, including, but not limited to, clinical studies or anecdotal evidence reported in medical literature or observations or information concerning the use of marijuana by other patients with the same or similar conditions;
- (b) Has provided the person with the physician's professional opinion concerning the possible balance of risks and benefits of the medical use of marijuana to relieve pain or alleviate symptoms in the person's particular case; and
- (c) Has advised the person, on the basis of the physician's knowledge of the person's medical history and condition, that the person might benefit from the medical use of marijuana to relieve pain or alleviate symptoms of the person's condition;

(3) The person has disclosed to the physician that person's medical use of marijuana; and

(4) The person is under the continuing care of the physician.

B. A person under 18 years of age may lawfully possess a usable amount of marijuana for medical use if:

- (1) The person meets the requirements of paragraph A, subparagraphs (1) to (4); and
- (2) The person:
  - (a) Has available a signed written authorization from that person's parent or legal guardian consenting to that person's medical use of marijuana; or
  - (b) Is a minor who is entitled to give consent to all medical and other health care services pursuant to Title 22, section 1503.

C. Notwithstanding any other provision of law, a designated care giver may lawfully possess a usable amount of marijuana for medical use by an eligible patient if the designated care giver is acting within the scope of the designated care giver's duties to the eligible patient.

D. The fact that a person produces documentation described in paragraph A does not constitute a waiver of the physician-patient privilege in any other respect.

E. A physician who, in the context of a bona fide physician-patient relationship, advises a patient that the patient might benefit from the medical use of marijuana may not be deemed to have violated any provision of Title 32, section 2591-A, subsection 2 or section 3282-A, subsection 2.

F. Notwithstanding the provisions of paragraph A, medical use of marijuana by an eligible patient is not authorized by this section if such use occurs in a public place or in a workplace where such use is not permitted.

G. It is an affirmative defense to prosecution for possession, use or cultivation of a usable amount of marijuana under section 2383, Title 15, section 3103 or Title 17-A, chapter 45 that the defendant was an eligible patient under this subsection.

H. It is an affirmative defense to prosecution for possession, possession with the intent to furnish, furnishing or cultivation of a usable amount of marijuana under section 2383, Title 15, section 3103 or Title 17-A, chapter 45 that the defendant was a designated care giver under this subsection if the person to whom the marijuana was to be furnished or for whom it was cultivated was an eligible patient.

6. Lawful possession of hypodermic apparatuses by livestock owners. A person who owns livestock is authorized to possess and have control of hypodermic apparatuses for the purpose of administering antibiotics, vitamins and vaccines to treat medical conditions or promote the health of that person's livestock. For the purposes of this subsection, "livestock" means cattle, equines, sheep, goats, swine, members of the genus Lama, poultry, rabbits and cervids as defined in Title 7, section 1333, subsection 1.

1989, c. 384, § 8; 1995, c. 499, § 3, eff. Oct. 15, 1995; 1995, c. 621, § 3; 1997, c. 340, § 5; 1999, c. 127, § A-35, eff. May 6, 1999; 1999, I.B. 2, §§ 7 to 10, eff. Dec. 23, 1999; 2001, c. 308, § 2; 2001, c. 580, §§ 1 to 3; 2003, c. 386, § 19; 2005, c. 252, § 2; 2007, c. 695, § B-4, eff. April 24, 2008.

1 21 U.S.C.A. § 812.

2 21 CFR § 1308.01.

3 32 M.R.S.A. § 2561.

4 32 M.R.S.A. § 3263.

5 17-A M.R.S.A. § 1101 et seq.

## Historical and Statutory Notes

### 2005 Legislation

Laws 2005, c. 252, § 2, in subsec. 1, added the second sentence.

### 2007 Legislation

Laws 2007, c. 695, § B-4, in subsec. 3, in par. C, substituted "section 13702-A, subsection 30" for "section 13702, subsection 24".

## Research References

### Treatises and Practice Aids

2 Substantive Criminal Law § 10.1, Necessity.

# COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: 975

Committee: HEALTH AND HUMAN SERVICES

Date: 4-15-9

Motion: ONTP

Motion by: Rep. Perry

Seconded by: Rep. Lewin

|                                     | Recommendation of those opposed to the Motion |    |       |           |          | Absent | Abstain |
|-------------------------------------|-----------------------------------------------|----|-------|-----------|----------|--------|---------|
|                                     | ONTP                                          | OP | OP-AM | New draft | Re-Refer |        |         |
| Those Voting in Favor of the Motion |                                               |    |       |           |          |        |         |

## Senators

|                  |      |  |  |  |  |   |  |
|------------------|------|--|--|--|--|---|--|
| Joseph Brannigan | ✓    |  |  |  |  |   |  |
| Lisa Marrache'   | ✓    |  |  |  |  | ✓ |  |
| Peter Mills      | ✓ PM |  |  |  |  | ✓ |  |

## Representatives

|                         |      |  |  |  |  |   |  |
|-------------------------|------|--|--|--|--|---|--|
| Anne Perry              | ✓    |  |  |  |  |   |  |
| Matthew Peterson        | ✓    |  |  |  |  |   |  |
| Patricia Jones          | ✓    |  |  |  |  |   |  |
| Linda Sanborn           | ✓    |  |  |  |  |   |  |
| Donald Soctomah         | ✓ DS |  |  |  |  | ✓ |  |
| Henry L. Joy            | ✓    |  |  |  |  |   |  |
| James Campbell          | ✓    |  |  |  |  | ✓ |  |
| Sarah Lewin             | ✓    |  |  |  |  | ✓ |  |
| Meredith Strang Burgess | ✓    |  |  |  |  | ✓ |  |
| Peter Stuckey           | ✓    |  |  |  |  | ✓ |  |
| Mark Eves               |      |  |  |  |  | ✓ |  |
| TOTALS                  |      |  |  |  |  |   |  |

SENATE

JOSEPH C. BRANNIGAN, District 9, Chair  
LISA T. MARRACHÉ, District 25  
PETER MILLS, District 26

JANE ORBETON, Legislative Analyst  
ELIZABETH COOPER, Legislative Analyst  
JAN CLARK, Committee Clerk



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DONALD G. SOCTOMAH, Passamaquoddy Tribe

State of Maine  
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE  
COMMITTEE ON HEALTH AND HUMAN SERVICES

April 17, 2009

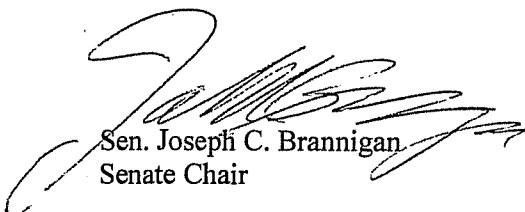
Honorable Elizabeth H. Mitchell, President of the Senate  
Honorable Hannah M. Pingree, Speaker of the House  
124th Legislature  
State House  
Augusta, Maine 04333

Dear President Mitchell and Speaker Pingree:

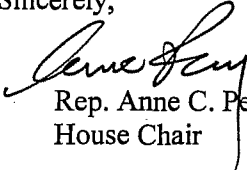
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Health and Human Services has voted unanimously to report the following bills out "Ought Not to Pass":

|           |                                                                                                                                                      |
|-----------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| L.D. 975  | An Act To Establish the Maine Medical Marijuana Act                                                                                                  |
| L.D. 1070 | Resolve, Directing the University of Maine at Orono To Conduct a Pilot Project Regarding the Benefits of Medical Marijuana                           |
| L.D. 1116 | An Act To Ensure Health Care Practitioners Understand and Screen for Domestic Abuse for Pregnant Women and New Mothers                               |
| L.D. 1117 | An Act To Create a Statewide Breast-feeding Resource System at Women, Infants and Children Offices                                                   |
| L.D. 1291 | Resolve, Establishing a Study Commission on In Utero Narcotic Drug Exposure (EMERGENCY)                                                              |
| L.D. 1340 | An Act To Protect Consumers' Health Information Records                                                                                              |
| L.D. 1354 | Resolve, Directing the Department of Health and Human Services To Limit Prescriptions for Narcotic Drugs under MaineCare without Prior Authorization |

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

  
Sen. Joseph C. Brannigan  
Senate Chair

Sincerely,

  
Rep. Anne C. Perry  
House Chair